

EXHIBIT 10

All Nippon Airways
vs.
United Air Lines

Deposition of

Teruo Usui

Volume 1

November 29, 2007

Reported By: Brandon Combs, CSR 12978
Job Number: 1-6058

Teruo Usui

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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ALL NIPPON AIRWAYS COMPANY,
LTD.,

Plaintiff,

VS ..

No C07-03422 EDL

UNITED AIR LINES, INC ,

Defendant .

VIDEOTAPED DEPOSITION OF
TERUO USUI

November 29, 2007

REPORTER: BRANDON D. COMBS, RPR, CSR 12978

Job 6058

Teruo Usui

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| <p>Page 2</p> | <p>Page 4</p> |
| <p>1 UNITED STATES DISTRICT COURT</p> <p>2 NORTHERN DISTRICT OF CALIFORNIA</p> <p>3 --oOo--</p> <p>4 ALL NIPPON AIRWAYS COMPANY,)</p> <p>5 LTD,)</p> <p>6)</p> <p>7 Plaintiff,)</p> <p>8)</p> <p>9 vs) No C07-03422 EDL</p> <p>10)</p> <p>11 UNITED AIR LINES, INC,)</p> <p>12)</p> <p>13 Defendant)</p> <p>14)</p> <p>15)</p> <p>16)</p> <p>17)</p> <p>18)</p> <p>19)</p> <p>20)</p> <p>21)</p> <p>22)</p> <p>23)</p> <p>24)</p> <p>25)</p> <p>--oOo--</p> <p>BE IT REMEMBERED THAT, pursuant to Notice and</p> <p>on Thursday, November 29, 2007, commencing at</p> <p>10:01 a.m. thereof at 595 Market Street, Suite 620,</p> <p>San Francisco, California, before me, BRANDON D. COMBS,</p> <p>a Certified Shorthand Reporter, personally appeared</p> <p>TERUO USUI,</p> <p>called as a witness by the Defendant being first duly</p> <p>sworn, testified as follows:</p> <p>--oOo--</p> <p>JAFFE, RAITT, HEUER & WEISS, 27777 Franklin</p> <p>Road, Suite 2500, Southfield, MI 48034-8214, represented</p> <p>by SCOTT R. TORPEY, Attorney at Law, appeared as counsel</p> <p>on behalf of the Defendant.</p> <p>CONDON & FORSYTH, LLP, Times Square Tower,</p> | <p>1 MR. TORPEY: Scott Torpey on behalf of</p> <p>2 United Airlines</p> <p>3 MR. WORTHE: Jeff Worthe on behalf of</p> <p>4 United Airlines</p> <p>5 MR. FUS: Steve Fus, United Airlines</p> <p>6 MR. TURNER: Marshall Turner for All Nippon</p> <p>7 Airways</p> <p>8 MR. ESKRIDGE: Timothy Eskridge for All Nippon</p> <p>9 Airways</p> <p>10 MR. SAKAMOTO: Shigeru Sakamoto</p> <p>11 MR. MIZUNO: Yoshihiro Mizuno for All Nippon</p> <p>12 Airways</p> <p>13 THE VIDEOGRAPHER: The court reporter today is</p> <p>14 Brandon Combs of Combs Reporting And would the</p> <p>15 reporter please administer the oath to the interpreter</p> <p>16 and the witness -- to both interpreters</p> <p>17 (After being duly sworn, the interpreters,</p> <p>18 Satoe Ohari and Sadaaki Matsutani, translated</p> <p>19 questions put to the witness into the Japanese</p> <p>20 language and the answers thereto given by the</p> <p>21 witness were translated into the English</p> <p>22 language)</p> <p>23 THE VIDEOGRAPHER: Please begin</p> <p>24 EXAMINATION BY MR. TORPEY</p> <p>25 MR. TORPEY: Q Good morning, Mr. Usui</p> |
| <p>Page 3</p> | <p>Page 5</p> |

Teruo Usui

1 A Morning
2 Q Where are you employed, sir?
3 A All Nippon Airway
4 Q And how long have you been there?
5 A 28 years
6 Q And what is your current position?
7 A I am captain of the Boeing 777 model
8 Q Is there a chief pilot for All Nippon Airways?
9 A By chief pilot, what sort of ranking would
10 that be?
11 Q Well, is there somebody who is in charge of
12 all pilots for All Nippon?
13 A Yes
14 Q Who would that be?
15 A Are you referring to the chief, to the group
16 that I belong to, or to the chief for all Boeing 777
17 models?
18 CHECK INTERPRETER: Passenger Never mind
19 That's okay
20 MR TORPEY: Q What group do you belong to?
21 A It's a training department
22 Q What position do you hold in the training
23 department?
24 A I am the training or educational officer
25 Q That's your title, educational or training

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1 exams periodically to ANA pilots?
2 CHECK INTERPRETER: Proficiency meaning
3 language proficiency? The interpreter interpreted it as
4 being language proficiency
5 MR TORPEY: Let me just say this With all
6 due respect, sir, I'm not here to take your deposition.
7 If he has a question on that, I'm sure he'll raise it
8 I don't know how much you know about aircrafts or
9 flying, that's a term of art He's a professional I
10 bet he knows what that is
11 CHECK INTERPRETER: The lead interpreter
12 interpreted as a language proficiency That's why the
13 checking interpreter is concerned
14 MR WORTHE: Well, that's your opinion
15 MR TURNER: It seems to me the interpreters
16 have been dealing with any suggestions among themselves
17 very well, and I don't see any reason for this
18 discussion to be going on But it's your deposition
19 You can conduct it the way you want
20 MR TORPEY: This gentleman has only been at
21 the deposition for the last two days for less than an
22 hour when he left to take part in the deposition
23 preparation for the next day's witness This is the
24 last day and apparently he's going to be here all day
25 I do not intend to waste my deposition time

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1 officer?
2 A Yes
3 CHECK INTERPRETER: May the checking
4 interpreter propose perhaps "an instructor"?
5 MR TORPEY: I don't want this deposition to
6 turn into a battle of the interpreters. If there's
7 something significant, I'd like you to raise it, but --
8 CHECK INTERPRETER: I'm just --
9 MR TURNER: I want to comment, it hasn't been
10 a battle of the interpreters
11 MR TORPEY: He hasn't been here, and he
12 probably will sit in today. Read back the answer, the
13 answer to his title
14 THE INTERPRETER: Training or educational
15 officer
16 MR TORPEY: Okay. Thanks
17 Q And do you train beyond the 777 aircraft, or
18 is that your specialty?
19 A No Just B777
20 Q And how long have you been the training and
21 educational officer on the 777?
22 A Seven years
23 Q Are you familiar with the term check airman?
24 A What does that person do?
25 Q Do you give proficiency checks or proficiency

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1 with the interpreters apparently disagreeing I brought
2 an interpreter She's the interpreter for this
3 deposition Your interpreter is welcome to whisper in
4 your ear, whatever, but I don't want this deposition to
5 be taken up with problems with the interpreter
6 MR TURNER: The only significant time
7 consumption has been your discussion about it
8 MR TORPEY: There's going to be no discussion
9 about this Read back the question, please
10 (Record read by the reporter)
11 MR TURNER: I'd like to note a comment on the
12 record as to the translation as to whether or not this
13 interpreter has translated the term proficiency as
14 "language proficiency" as opposed to "piloting
15 proficiency " That's my comment
16 MR TORPEY: Q The answer?
17 A With regards to a regular examination, I give
18 an annual examination to the pilots
19 Q Is there some type of regulation, sir, that
20 requires an annual proficiency exam or check?
21 A It's a company rule
22 Q And when you give these proficiency exams, is
23 it a written exam or a performance exam? Just describe
24 for me a little bit about what you do and how you do it
25 A It is a performance exam I did say pilot,

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Ieruo Usui

1 but there are captains and copilots This exams is
2 given only to copilots
3 Q And the exam that's given only to the copilots
4 or check ride, how long has that been the policy of ANA?
5 A From about four to five years ago
6 Q Would that make it around 2002, 2001?
7 A I obtained the license in 2004, so it was from
8 2004
9 Q Oh, I understand But before you were
10 licensed as a proficiency examiner, was that still the
11 rule that only copilots would get the proficiency check?
12 A One moment, please
13 Q No problem
14 A It is 2007 today, so -- well, I obtained the
15 license in -- at the end of 2003, so it has been four
16 years
17 Q Can you tell me when at the end of '03 you
18 became a check airman or proficiency officer?
19 A I do not have a recollection of exactly when
20 it was
21 Q Would it have been sometime before October of
22 2003?
23 A After
24 Q Do you know if it was in October or was it
25 after October, 2003?

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1 A In order to obtain this qualification, I had
2 to have knowledge about the flight, the crew as well as
3 requirements of the aviation board since the exam was
4 being done for the aviation board
5 Q When you refer to the aviation board, what
6 specific organization are you referring to?
7 A It is the aviation board of the transportation
8 ministry
9 Q Is that of Japan?
10 A Yes
11 Q And you said that you had to be familiar with
12 aviation regulations Would those include any -- is
13 there a set of regulations governing aviation in the
14 country of Japan?
15 A It is a Japanese aviation law
16 Q Now, do you also have to be familiar with the
17 United States federal aviation regulations?
18 A No
19 Q Is there someone in your company who is
20 charged with the obligation of knowing the U S federal
21 aviation regulations?
22 A I've never heard about that
23 Q Do you know if there's any regulation -- do
24 you know one way or the other if there's any regulation
25 or other rule in Japan which requires compliance with

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1 A After
2 Q If you wanted to get the exact date when you
3 were -- when you became a proficiency officer, where
4 would you look for that information?
5 A There is a Japanese aviation certificate, so
6 if I check that, I will be able to know.
7 Q Is that something you carry with you?
8 A No
9 Q What did you have to do -- or how long was the
10 process -- strike that
11 What did you have to do and for what period of
12 time to qualify as a proficiency officer?
13 A I was
14 THE INTERPRETER: The interpreter will
15 restate
16 THE WITNESS: I had to have knowledge about
17 aviation regulations, the judgment standards for the
18 examination. Also, since this is a company internal
19 examination, it had to be done or rather I had to do the
20 guiding in a manner that would be authorized by the
21 aviation board
22 MR TORPEY: Q You said that one of the
23 things you had to do was to know the aviation
24 regulations Can you tell me what regulations you're
25 referring to

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1 U S federal aviation regulations?
2 A I do not know.
3 Q When aircraft -- when ANA aircraft come to the
4 United States and land or take off from airports within
5 the United States, you agree with me that they are
6 obligated to comply with U S federal aviation
7 regulations; correct?
8 A When we fly to the U S , we have not seen any
9 particular difference
10 THE INTERPRETER: The interpreter will
11 restate
12 THE WITNESS: When we fly to the U S , I have
13 not seen any material regarding the difference in
14 aviation laws of Japan and the U S at the company We
15 study ATC material So I am not -- I am not aware about
16 the compliance with FAA aviation regulations We study
17 how to fly
18 MR TORPEY: Q Well, there are Japan
19 aviation regulations that govern how your pilots on your
20 aircraft fly; correct? Or how their supposed to fly?
21 A I don't understand
22 Q Let me get back to the original question, sir
23 As the educational and training officer of
24 ANA, do you believe that when an ANA aircraft lands or
25 takes off from San Francisco International Airport here

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| <p>1 in San Francisco, California, that the flight crew of 2 that ANA aircraft while in the United States on the 3 ground have to comply with U S federal aviation 4 regulations relative to the operation of their aircraft 5 at that U S airport? 6 A First of all, although I am a training 7 officer, my work is related to technical matters Also, 8 when we fly to the U S , we follow the way of the U S 9 in flying 10 Q Let me see if I understand you You, 11 yourself, are a captain and act as pilot in command of a 12 777 including flights to airports in the United States; 13 correct? 14 A Yes 15 Q And when you, as the pilot in command, are 16 flying an aircraft and landing at San Francisco or 17 piloting an aircraft taking off from San Francisco, you 18 understand that you and your crew members, while at the 19 U S airport, must comply with U S federal aviation 20 regulations with regard to the operation of your 21 aircraft; correct? 22 A To state it simply, I am not too conscious 23 about that We follow the way that we must fly in the 24 U S I'm not too conscious about regulations, per se 25 Q Well, I don't know what you mean by not too</p> <p>Page 14</p> | <p>1 Q And you agree with me then that in operating 2 an aircraft, for example, taxiing an aircraft at 3 San Francisco International Airport, ANA pilots are 4 required to comply with the U S federal aviation 5 regulations; correct? 6 A When we fly in the U S , including movement on 7 land such as taxiing, we do it in a manner that was 8 taught to us by our company, so I believe we are 9 satisfying the regulations 10 Q Okay Thank you, sir 11 Let me just ask a few more things on 12 background here The route manual, you're familiar with 13 what the route manual is I take it? 14 A You're talking about the route manual 15 distributed by the company? 16 Q That's correct, sir 17 A Yes 18 Q Does the route manual have in it specific 19 regulations, whether Japan regulations or U S federal 20 aviation regulations? Does it quote specific 21 regulations in that manual? 22 A There are no regulations, per se There's no 23 the description of the law 24 Q Okay Would that be in the operations manual, 25 or do you know if it's in any particular manual that's</p> <p>Page 16</p> |
| <p>1 conscious I guess what I'm saying to you, sir, is you 2 are commercial airline pilot that flies a 777 aircraft 3 to and from U S airports. 4 My question simply is are you or are you not 5 required to comply with U S federal aviation 6 regulations when you are flying into or out of a 7 United States airport? 8 A We follow the way flying is done in the U S , 9 so I believe we are satisfying the FAA requirements 10 Q And I think I understand you Let me show you 11 what is -- let me mark this I don't know what number 12 that is 13 (Whereupon, Exhibit 14 was marked for 14 identification) 15 (Discussion off the record) 16 MR TORPEY: Q Mr Usui, let me show you 17 what we've marked Exhibit 14, which is a page from the 18 federal aviation regulations, in particular, 49CFR part 19 91.1 titled, applicability under subsection A, among 20 other things, it says there, this part prescribes rules 21 governing the operation of aircraft within the 22 United States including the waters within three nautical 23 miles of the U S coast 24 Do you see that? 25 A Yes</p> <p>Page 15</p> | <p>1 distributed by ANA? 2 A In the route manual, there is a basic 3 examination in a section called ATC, and that section 4 contains abstracts or typical information 5 Q And I apologize if I asked this, sir, but when 6 you give proficiency exams or check rides, did you say 7 there is a written component, or is it you strictly 8 observe the performance of the pilots you're evaluating? 9 A Only the technical portion 10 Q I'm not following you What do you mean by 11 the technical portion? Is that you have to watch them 12 do something, or do you give them a written test of some 13 type? 14 A There is no written examination. 15 Q Do you perform your evaluation by sitting in 16 the cockpit of an aircraft that they're flying, or do 17 you watch them in a simulator, or how do you do it? 18 What's the setting you perform this proficiency check? 19 A We use the simulators 20 Q Do you sometimes give a check ride in an 21 actual aircraft? 22 A No 23 Q Is there any kind of a written, let's say, 24 guidelines that you follow that these pilots must meet 25 In other words, is there some protocol or procedure</p> <p>Page 17</p> |

Teruo Usui

1 written that you apply in evaluating what the pilots are
2 doing?
3 A. When evaluating, there's a guideline put out
4 by the company
5 Q. What's the guideline called?
6 A. Check manual
7 Q. Do you know if there have been any changes in
8 the check manual say since 2003 to today?
9 A. Yes I believe there was or were
10 Q. Okay To become a 777 pilot, does ANA provide
11 any kind of training? I know we talked about you doing
12 proficiency exams, but is there a training program that
13 pilots have to go through?
14 A. Yes
15 Q. And do you do the training as well?
16 THE INTERPRETER: The interpreter will repeat
17 the question in Japanese
18 THE WITNESS: I do conduct a set program when
19 the pilot is moving from another aircraft model to 777
20 MR. TORPEY: Q. So when somebody wants to get
21 type rated from say a 767 to a 777, you would give the
22 training on the 777?
23 A. Yes.
24 Q. Is there any other kind of training given to
25 pilots, let's say, besides just type-rating training,

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1 but general piloting type training Is there anything
2 like that given to ANA pilots? Not aircraft specific
3 In other words, it's not for a particular type of
4 aircraft but just piloting in general
5 A. Yes
6 Q. And what does that -- do you do that training
7 as well?
8 A. Yes
9 Q. What's that -- give me a feel for what that
10 kind of training is
11 A. I don't have the materials here, so it is hard
12 to say But there is a regular training annually
13 Q. And would that include pilots of all the types
14 of aircraft that are in the ANA fleet?
15 A. All ANA pilots receive an annual training.
16 Q. And what is the training manual that you use
17 for that training called?
18 A. There is no manual because that regular
19 training conducted once a year changes every year
20 Q. Is there any kind of written materials that is
21 given to you by the company for you to use in providing
22 that annual training?
23 A. Yes
24 Q. And tell me what, is it in a booklet, or what
25 is the nature of the materials that's utilized?

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1 A. The materials are kept at the training
2 department
3 Q. Okay Now, you say they change Do they
4 change every year, or how frequently do the materials
5 change?
6 A. Overall, they are the same, but with each
7 training, we have to make sure that the requirements
8 will be covered so those things would change
9 Q. Backing up a step, with regard to the training
10 in type, in other words, to get type rated on a 777, do
11 the materials change every year, or are they -- let me
12 rephrase that
13 To get type rated in a 777, the check manual,
14 is it basically the same from year to year, maybe minor
15 changes, but basically the manual is pretty much the
16 same?
17 THE INTERPRETER: The interpreter will restate
18 the question in Japanese
19 THE WITNESS: There are revisions of the check
20 manual, but it is not as if there is a change every
21 year
22 MR. TORPEY: Q. Okay I guess with regard to
23 the check manual, if there was a revision, is there a
24 table of revisions, in other words, it will show, you
25 know, a page and what replaces it so you can see what

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1 and when it was revised?
2 A. Yes There is a table of revision
3 Q. Mr. Usui, how long have you performed the
4 annual training that we've been talking about? How long
5 have you been a trainer for that type of training?
6 A. I don't know how many times I do not recall
7 Q. I'm sorry I didn't mean how many times How
8 many years have you been doing this annual training?
9 A. Ever since I became the training officer, and
10 it's been around seven years, although I do not have an
11 accurate recollection
12 Q. How many trainers in addition to yourself are
13 there for the 777 aircraft? Trainers and check airmen
14 A. I don't know how many exactly
15 Q. Would there be, let's say, dozens or hundreds
16 or an estimate?
17 A. I think there are 20 to 30 trainers.
18 Q. Okay This annual training, is any of it done
19 in a classroom training, and also, is there any kind of
20 written examination that is given?
21 MR. TURNER: Objection as to form
22 THE WITNESS: I already said there is no
23 written examination
24 MR. TORPEY: Q. Are there any videos, CDs,
25 that are played for training purposes to the pilots?

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|---|---|
| <p>1 A No</p> <p>2 Q With regard to either the training to become</p> <p>3 type rated in a 777 or the annual training we've been</p> <p>4 talking about, is there any training or instruction to</p> <p>5 the ANA pilots with regard to taxiing of aircraft?</p> <p>6 A When the pilots are trying to get type rated</p> <p>7 for the 777 model, they already have experience with</p> <p>8 taxiing, in other words, they can taxi, so we do not</p> <p>9 give any particular training on that</p> <p>10 Q Let's say if it was someone giving training,</p> <p>11 not to get type rated but other type of training,</p> <p>12 apparently you do give taxiing training or instruction?</p> <p>13 A Just the very first lesson</p> <p>14 Q Tell me what it is that you train during that</p> <p>15 first lesson? What is it that you're training them to</p> <p>16 do?</p> <p>17 A I don't have them here, so I can't say</p> <p>18 Q What document would that be in or called? If</p> <p>19 I wanted you to produce to us the taxi training</p> <p>20 materials, what would I ask for?</p> <p>21 A I don't know</p> <p>22 Q If someone were to ask you for a copy of the</p> <p>23 training materials that you used to teach taxi</p> <p>24 instructions, you would know what that person is talking</p> <p>25 about though; correct?</p> <p>Page 22</p> | <p>1 MR TORPEY: For the record, Marshall,</p> <p>2 Exhibit 15, are there any other documents you're</p> <p>3 producing today?</p> <p>4 MR TURNER: If you ask for things, I'll let</p> <p>5 you know --</p> <p>6 MR TORPEY: I asked for them before we got</p> <p>7 here That's why I sent a deposition notice So if</p> <p>8 you're producing documents, let's have them I don't</p> <p>9 want to get these drip, drip as the day goes on</p> <p>10 MR TURNER: You asked him to bring documents</p> <p>11 with him --</p> <p>12 MR TORPEY: I did not ask this witness to</p> <p>13 bring documents I didn't ask any witness to bring</p> <p>14 documents I sent a deposition notice to ANA ANA was</p> <p>15 to produce documents at the commencement of the</p> <p>16 deposition two days ago You're producing them on a</p> <p>17 daily basis, and I'm asking whether you're producing</p> <p>18 anything else today</p> <p>19 MR TURNER: If you ask for something else --</p> <p>20 MR TORPEY: Again, I'll ask you to</p> <p>21 produce everything we requested in the deposition</p> <p>22 notice</p> <p>23 MR TURNER: Let me read you the deposition</p> <p>24 notice</p> <p>25 MR TORPEY: I know what it says If you're</p> <p>Page 24</p> |
| <p>1 A There is no written materials regarding the</p> <p>2 main points or gist of taxiing, so we give the gist of</p> <p>3 taxiing verbally</p> <p>4 Q Then since it's just verbal, tell us what it</p> <p>5 is that you tell the pilots with regard to taxiing</p> <p>6 A Just the instruction on how to turn because</p> <p>7 they all know how to move the aircraft along the</p> <p>8 centerline</p> <p>9 Q How long have you held a commercial airline</p> <p>10 pilot certificate?</p> <p>11 A By commercial license, which one are you</p> <p>12 referring to?</p> <p>13 Q Let me ask you what licenses or</p> <p>14 certificates -- aviation licenses or certificates do you</p> <p>15 hold and how long have you held them?</p> <p>16 MR TURNER: We have made copies of Mr Usui's</p> <p>17 licenses, aviation licenses if you want them</p> <p>18 MR TORPEY: Why don't you produce for me</p> <p>19 whatever documents you're producing today so we can mark</p> <p>20 those And, yes I'll retroactively make them part of</p> <p>21 the protective order I assume you're not giving me</p> <p>22 your hotel bill We'll mark these I guess This would</p> <p>23 be 14? 15</p> <p>24 (Whereupon, Exhibit 15 was marked for</p> <p>25 identification)</p> <p>Page 23</p> | <p>1 not going to produce, I'm going assume at this point</p> <p>2 there's nothing left to produce, and I'm going to move</p> <p>3 on with the deposition</p> <p>4 MR TORPEY: Q I apologize for the</p> <p>5 distraction, sir Just tell me how long you've had --</p> <p>6 what licenses and certificates do you hold aviation</p> <p>7 licenses and certificates and for how long</p> <p>8 A I hold the airline transport pilot</p> <p>9 certificate, the copy of which is here</p> <p>10 Q Mr Usui, Exhibit 15, can you tell me what</p> <p>11 those documents are, please</p> <p>12 A The cover page or rather the first page is the</p> <p>13 aviation medical certificate</p> <p>14 Q And what are the remaining documents?</p> <p>15 A The third sheet is the airline transport pilot</p> <p>16 certificate And fourth sheet is a copy of the ratings</p> <p>17 and limitations certificate And final sheet shows my</p> <p>18 license as a radio operator on an aircraft</p> <p>19 Q Mr Usui, prior to the deposition, did anyone</p> <p>20 ask you if you had any objection to producing your</p> <p>21 training and personnel records?</p> <p>22 A No</p> <p>23 Q If we were to request getting your training</p> <p>24 personnel records -- not financial records -- but just</p> <p>25 training personnel records from ANA, do you have any</p> <p>Page 25</p> |

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| | |
|--|---|
| <p>1 problem with ANA releasing those?</p> <p>2 A Me personally?</p> <p>3 Q Yes</p> <p>4 A If the company decides to, it is okay with me</p> <p>5 Q Thank you By the way, when do you return --</p> <p>6 or leave the U S ?</p> <p>7 A This time?</p> <p>8 Q When are you leaving to go back to wherever</p> <p>9 you're going after here?</p> <p>10 A Tomorrow</p> <p>11 Q You're going back to Japan?</p> <p>12 A Yes</p> <p>13 Q And when did you arrive in the U S ?</p> <p>14 A I arrived on November 28</p> <p>15 Q That would be yesterday; correct?</p> <p>16 A Yes</p> <p>17 Q And did you come in as a passenger on ANA?</p> <p>18 A Yes, that's right</p> <p>19 Q And do you depart tomorrow as a passenger on</p> <p>20 ANA?</p> <p>21 A Yes</p> <p>22 Q When are you next scheduled to fly as a crew</p> <p>23 member on ANA?</p> <p>24 A The schedule was not yet ready when I left</p> <p>25 Japan, so I don't know.</p> <p>Page 26</p> | <p>1 A 767 and 747</p> <p>2 Q If you wanted to look up how many hours in</p> <p>3 type or how many total hours you have, what document</p> <p>4 would that be contained in and who would have that</p> <p>5 document?</p> <p>6 A That is personal information, so</p> <p>7 Q So would ANA have that or something you keep</p> <p>8 personal?</p> <p>9 A Well, this is the sort of information that not</p> <p>10 everyone can have access to, so there's some information</p> <p>11 kept by ANA and also kept by the individual</p> <p>12 Q As part of your piloting duties with ANA</p> <p>13 you -- sorry I know you've been with ANA 28 years, how</p> <p>14 long have you been -- first a copilot</p> <p>15 How long were you a copilot on the 777?</p> <p>16 A I don't know how many years I have been a</p> <p>17 copilot on 777 because I received training to be</p> <p>18 promoted to captain of that aircraft model</p> <p>19 Q When did you become a captain of a 777?</p> <p>20 A I don't know when it was exactly</p> <p>21 Q Has it been for more than seven years?</p> <p>22 A Yes.</p> <p>23 Q And as captain, you're the pilot in command;</p> <p>24 correct?</p> <p>25 A Yes</p> <p>Page 28</p> |
| <p>1 Q And when did you last fly as a crew member for</p> <p>2 ANA?</p> <p>3 A I don't have the schedule at hand, so I don't</p> <p>4 know.</p> <p>5 Q That's fine No problem.</p> <p>6 I don't obviously read Japanese, so could you</p> <p>7 tell me how long have you held an air transport pilots</p> <p>8 certificate When did you first get that?</p> <p>9 A It is written at the left bottom of the</p> <p>10 license, so I obtained it on April 9, 1998</p> <p>11 Q How many total hours do you have as a pilot?</p> <p>12 A To now?</p> <p>13 Q Yes</p> <p>14 A I can't tell you how many hours since I don't</p> <p>15 know that without looking at data</p> <p>16 Q Do you have just a ballpark, an estimate?</p> <p>17 A I think it would be about 10,000 hours at</p> <p>18 present.</p> <p>19 Q And of those approximate 10,000 hours, how</p> <p>20 many would be in type in a 777?</p> <p>21 A I don't know</p> <p>22 Q Would you say more than half?</p> <p>23 A I have flown three different aircraft models,</p> <p>24 so I do not know the number of hours for 777</p> <p>25 Q What other aircrafts have you flown?</p> <p>Page 27</p> | <p>1 Q On average, about how many times per month</p> <p>2 would you fly a 777 aircraft, say, to or from the</p> <p>3 United States -- to or from the United States? What's</p> <p>4 an average month?</p> <p>5 A Month -- the monthly average?</p> <p>6 Q Yeah How many trips per month would you make</p> <p>7 as captain?</p> <p>8 A Two to three times per month</p> <p>9 Q Okay. And has that pretty much been the case</p> <p>10 for the last at least seven years that you've been a</p> <p>11 captain?</p> <p>12 A Well, I also work as a trainer, so when I have</p> <p>13 trainees, there could be times when I would not fly for</p> <p>14 two months</p> <p>15 Q So you're either -- if you are flying, it</p> <p>16 averages two or three times, but some months you don't</p> <p>17 fly at all because you're training? Is that pretty much</p> <p>18 what you do?</p> <p>19 A By that, are you saying that there are months</p> <p>20 that I don't fly to the U S specifically?</p> <p>21 Q No I meant -- are there months when you</p> <p>22 don't fly at all because you're training?</p> <p>23 A No There would be no such months because</p> <p>24 between trainings, I would fly domestically</p> <p>25 Q Of the two to three times a month on average</p> <p>Page 29</p> |

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1 that you are the captain of a 777, about how many times
2 on average would those trips involve a trip to or from
3 the United States?
4 A There are months when I do not fly to the U.S
5 because I fly also to China and Asia
6 Q When you fly to the U.S., where do you
7 typically fly to? What airport do you fly in or out of,
8 typically
9 A Location?
10 Q Yeah
11 A New York, Washington, San Francisco and
12 Los Angeles
13 Q New York, is that JFK?
14 A Yes
15 Q Dulles?
16 A Washington
17 Q Is that Dulles or Reagan?
18 A Yes, Dulles
19 Q Since, let's say, the last seven years that
20 you've been a captain, at least for the last seven
21 years, can you tell me how many times a year you would
22 have flown in or out of San Francisco International?
23 A For the first year and a half I did not fly to
24 San Francisco. At the beginning I was flying to
25 Chicago, so I did not fly to San Francisco. Since then

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1 2007, any idea how many times on average per month you
2 were flying in and out of San Francisco?
3 A This year, right?
4 Q Yeah
5 A I don't know unless I look at the record
6 Q Okay. Fair enough. Do you speak English?
7 A A little
8 Q And do you read English?
9 A A little
10 Q And when you are the communicating pilot, you
11 have to talk to air traffic control in English; am I
12 correct?
13 A Yes
14 Q When you are the -- strike that
15 As the captain and pilot in command, is it
16 your decision to determine whether you or your first
17 officer would be the flying pilot?
18 A The PIC makes the decision as to who will fly
19 the plane
20 Q Is there any guideline that you use in terms
21 of deciding whether on a particular leg or particular
22 portion of a leg you, as opposed to your first officer,
23 would be the pilot flying?
24 A By guideline, do you mean something that is
25 written?

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1 I do not know how many times I flew to San Francisco
2 Q Just so I understand your answer, from the
3 first year and a half that you became a captain, you did
4 not fly to San Francisco, captain of the 777; am I
5 correct?
6 A There was no route.
7 Q When did ANA first have a route established to
8 San Francisco?
9 A I do not know
10 Q Is it before the year 2000?
11 A I don't know
12 Q In the last five years, would you say you've
13 flown in and out of San Francisco as a crew member at
14 least -- at least once a month?
15 A I wouldn't say at least because sometimes I
16 may never fly into San Francisco in one month
17 Q Would it be fair to say that in the last seven
18 years since you've been -- at least the last seven years
19 since you've been a captain, that you would have flown,
20 let's say, at least ten times a year into or out of
21 San Francisco for the last seven years?
22 A I don't know for sure, but probably.
23 Q And I know you're probably ready for a break
24 shortly, and we'll take it
25 In the past year, let's say this year, in

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1 Q Well, I guess, first let me ask you, is there
2 anything written?
3 A Yes, there is a written guideline
4 Q And what is that guideline called?
5 A Do you mean a leaflet or something?
6 Q Is there a name for the document, or where
7 would it be found if I wanted to look for it?
8 A Oh, it is written in operations manual
9 Q Okay. And that operations manual is the
10 manual that must be kept on the 777 aircraft at all
11 times; correct?
12 A It is there
13 Q Is the manual in English or Japanese or both?
14 A It is in Japanese
15 MR. TURNER: Is this a good time to break?
16 We've been going for about an hour and a half without a
17 break.
18 MR. TORPEY: I have just a few more questions
19 on this
20 MR. TURNER: Go ahead
21 MR. TORPEY: I'll give you a break in a
22 moment
23 Q Just tell me what you recall briefly about
24 what some of the guidelines are in regards to whether
25 you as the captain or first officer should be the flying

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1 pilot
2 A First, the weather condition and the weight of
3 the aircraft is determined according to the runway
4 Also, the runway condition, is it dry or wet
5 Q Anything else that you recall?
6 A And also if there is any structural problem
7 with regards to the fuselage, we will not have the first
8 officer operate the plane
9 Q How about with respect to whether you or your
10 first officer should taxi either upon landing or upon
11 departure What guidelines exist with regard to that
12 specific operation?
13 A No.
14 MR TORPEY: We can take a break if you like
15 THE VIDEOGRAPHER: This concludes Videotape 1
16 of the deposition of Teruo Usui The time on the
17 monitor is 11:31 a m
18 (Recess taken)
19 THE VIDEOGRAPHER: Here begins Videotape 2 of
20 the deposition of Teruo Usui Coming back on the
21 record The time is 11:47 Please begin
22 MR TORPEY: Q Mr. Usui, have you ever heard
23 of a concept called conflict resolution as it applies to
24 the piloting of an aircraft?
25 A No, not really.

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1 Q Well, let me describe a situation for you, and
2 maybe there's a different name for it in your language
3 than what I'm referring to as conflict resolution
4 Let's say that you are taxiing an aircraft and
5 you are the flying pilot and you see another aircraft
6 and you're not sure whether or not, if you continue to
7 taxi, you might strike the other aircraft
8 Is there a process that you as the pilot would
9 go through to consider what you should do in response to
10 what you're looking at?
11 MR TURNER: Objection as to form and
12 incomplete hypothetical
13 CHECK INTERPRETER: There was an objection
14 MR TURNER: Translate the objection, please
15 THE INTERPRETER: Excuse me
16 THE WITNESS: When there is other traffic or
17 another aircraft when taxiing, we would communicate with
18 the ATC to confirm.
19 MR TORPEY: Q What would you want to
20 confirm?
21 A What do you mean by that question? What do
22 you want to confirm?
23 Q In the situation that I just gave you, let's
24 say that you were the pilot in command and flying pilot
25 and you were taxiing your aircraft, your 777, and during

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1 the taxi you see another aircraft and you are not sure
2 whether or not, if you continue to taxi, you might
3 collide with that other aircraft
4 What would you say to aircraft control when
5 you called them? In other words, what would you ask
6 aircraft traffic control?
7 A I would not know unless I am in such a
8 situation
9 Q Would it be fair to say, Mr. Usui, one of the
10 things that you would want to do is discuss with air
11 traffic control whether or not it is safe for you to
12 continue taxiing, or whether you should stop and take
13 some other action?
14 A I don't know unless I am in the situation, but
15 I believe that there would be some instruction or
16 instructions from ATC
17 Q Well, as the pilot in command of a 777, if you
18 were taxiing, Mr. Usui, and for whatever reason you were
19 not sure whether or not you were going to collide with
20 another aircraft during your taxi, am I correct that you
21 would stop the taxi until you could confirm that you
22 were not going to collide with the other aircraft?
23 MR TURNER: Objection as to form and
24 foundation
25 THE WITNESS: Unless I am in that situation, I

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1 don't know
2 MR TORPEY: Q Okay Mr. Usui, I understand
3 that you want to have a particular situation, but really
4 it doesn't matter what the situation is You can image
5 any situation you want
6 But if that situation involves a potential
7 collision with another aircraft while taxiing, you would
8 agree with me that you as the pilot in command would not
9 continue taxiing until you knew for sure you were not
10 going to collide with the other aircraft; correct?
11 MR TURNER: Objection as to form and
12 incomplete hypothetical.
13 THE WITNESS: If we follow the instruction of
14 ATC, I don't think there will be a collision
15 MR TORPEY: Q But if you felt there is a
16 possibility of a collision and you weren't sure, even if
17 you were following the instructions of ATC, as a safe
18 pilot in command, then you would bring your aircraft to
19 a stop until you could confirm, in fact, you would not
20 collide with the other aircraft; true?
21 MR TURNER: Objection as to form, incomplete
22 hypothetical
23 THE WITNESS: There's surely an instruction
24 from ATC in such a situation
25 MR TORPEY: Q What if in that situation :

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1 though, for whatever reason, you could not reach ATC?
2 As the pilot in command and the person responsible for
3 the safe operation of your aircraft, wouldn't you bring
4 your aircraft to a stop rather than to continue taxi
5 until you knew for sure you were not going to run into
6 the other aircraft?
7 MR TURNER: Objection as to form, incomplete
8 hypothetical
9 THE WITNESS: We are supposed to follow the
10 instruction of the ATC To stop in the middle is to go
11 against that instruction It is like violating the
12 instruction
13 MR TORPEY: Q And so you as the pilot in
14 command of an ANA 777 and a proficiency examiner for
15 ANA, if given clearance to taxi, and even if you
16 perceive that you might collide with another aircraft
17 and if for some reason you can't contact air traffic
18 control, you would continue to taxi your aircraft right
19 into the other aircraft rather than stop until you could
20 confirm the clearance
21 Is that what you're saying, sir?
22 MR TURNER: Objection as to form, incomplete
23 hypothetical
24 THE WITNESS: I don't quite understand the
25 question

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1 and careful pilot in command, if there is any doubt in
2 your mind about whether or not during your taxi you're
3 going to collide with another aircraft, even if you've
4 already been cleared by air traffic control, then you
5 will stop your airplane rather than to continue to taxi;
6 correct?
7 MR TURNER: Objection as to form and
8 incomplete hypothetical
9 THE WITNESS: We follow ATC when we operate
10 the aircraft, so if there is anything, there would be an
11 instruction from ATC
12 MR TORPEY: Q Mr Usui, what if you were
13 taxiing your airplane as pilot in command and you were
14 cleared by ATC to taxi and during that taxi you see
15 another aircraft and you don't know whether or not you
16 are going to crash into that other airplane
17 You as the pilot in command, what would you do
18 at that point?
19 MR TURNER: Objection as to form, incomplete
20 hypothetical
21 THE WITNESS: Of course when taxiing an
22 aircraft, we will observe the surrounding, and I do not
23 know since -- I do not know unless I am in that
24 particular situation, but there will surely be an
25 instruction from ATC

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1 MR TORPEY: Q Who is responsible for the
2 safe operation of your aircraft when you are the pilot
3 in command of the 777 aircraft filled with passengers?
4 A The PIC
5 Q So the ultimate safety of your passengers and
6 your crew members is your responsibility when you're the
7 pilot in command; correct, sir?
8 A The PIC
9 Q And could collision with another aircraft
10 cause a safety hazard if there was a collision during
11 taxi?
12 A What do you mean by a safety hazard
13 Q If you were taxiing your aircraft and you ran
14 into another aircraft, could that cause someone on
15 either airplane to become hurt or even killed?
16 A I can't really say It depends on the type of
17 collision
18 Q Well, certainly you would not under any
19 circumstances want to taxi your airplane into another
20 airplane for any reason; correct?
21 MR TURNER: Objection as to form and
22 incomplete hypothetical
23 THE WITNESS: No one will taxi an aircraft in
24 order to have a collision
25 MR TORPEY: Q And therefore, being a safe

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1 MR TORPEY: Q With all due respect,
2 Mr Usui, I'm going to ask that that answer be struck
3 because I don't believe it was responsive, and I'll ask
4 a few more times this question
5 And I would just say, regardless of what
6 anyone told you, I believe you have integrity, sir, and
7 I think you hold a position with a very fine airline
8 And I'm asking you, honestly, to testify about a
9 question that I think is very basic And I will ask
10 you, sir, and please tell me in response to this
11 question what you would do
12 MR TURNER: Before you do that, I'm going to
13 instruct the witness that he is to disregard counsel's
14 comments which are inappropriate and unprofessional and
15 demeaning, and he is to listen to the question carefully
16 and give his true and accurate and honest answer
17 regardless of Mr Torpey's comments
18 MR TORPEY: Q Mr Usui, as a 28-year
19 veteran of All Nippon Airways, as a pilot in command, as
20 a check airman of ANA, as a pilot with over 10,000 hours
21 of experience, as a person charged with the
22 responsibility for the safety of ANA passengers, if you
23 were the pilot in command of a 777 and the flying pilot
24 and you were taxiing at San Francisco International
25 Airport and you were cleared by ramp control to proceed

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1 to the transition area, and while en route to that
2 transition area you saw another aircraft and you did not
3 know for sure whether or not you would collide with that
4 other aircraft
5 What would you, as the pilot in command, do in
6 that situation, sir?
7 MR TURNER: Objection as to form, incomplete
8 hypothetical
9 THE WITNESS: First of all, what kind of
10 clearance did the ATC give?
11 MR TORPEY: Q Clearance to taxi from the
12 engine-start line to spot 10, the transition area
13 between the nonmovement and movement area
14 MR TURNER: Objection as to form, incomplete
15 hypothetical
16 THE WITNESS: Of course, I would taxi
17 according to the instruction of ATC
18 MR TORPEY: Q So rather than determine
19 before you proceed whether you were going to run into
20 the other aircraft, you would just continue to taxi? Is
21 that your answer, sir?
22 MR TURNER: Objection as to form, foundation,
23 incomplete hypothetical
24 THE WITNESS: If there was another aircraft
25 that suddenly appeared on the taxiway that we were

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1 going to collide? What would you do?
2 MR TURNER: Objection as to form, incomplete
3 hypothetical
4 THE WITNESS: If it was right in front, I
5 would go slowly No one would go fast
6 MR TORPEY: Q So you would not stop even
7 though you did not know you'd clear the conflict? You
8 would keep going, you would just slow down Is that
9 your answer, sir?
10 MR TURNER: Objection as to form, incomplete
11 hypothetical
12 THE WITNESS: No What I said was that I
13 would lower the taxi speed as much as possible
14 MR TORPEY: Q But even if you lowered the
15 taxi speed, if at the time you lowered the taxi speed
16 you did not know whether or not you were going to
17 collide with the other aircraft, would you still keep on
18 taxiing until you kept taxiing right into the other
19 aircraft?
20 Or would you stop, attempt to stop, and call
21 air traffic control or ramp control to determine whether
22 or not you were going to collide with the other
23 aircraft?
24 MR TURNER: Objection as to form, incomplete
25 hypothetical

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1 taxiing, the ramp control would not give such an
2 instruction
3 MR TORPEY: Q But what if the ramp control
4 had already given the instruction? What would you do?
5 Would you continue to taxi, or would you first take some
6 other action such as stopping, calling the ramp control,
7 and inquiring whether or not you're going to clear that
8 potential collision hazard?
9 MR TURNER: Objection as to form, incomplete
10 hypothetical
11 THE WITNESS: I don't know unless I am in such
12 a situation
13 MR TORPEY: Q Well, put yourself in that
14 situation, sir Put yourself in the cockpit of a 777
15 aircraft as the pilot in command, flying -- taxiing from
16 the engine-start line, cleared by ramp control to
17 spot 10
18 And while you are proceeding to spot 10,
19 another aircraft comes into your field of view and you
20 do not know for sure whether or not you're going to
21 collide with that other aircraft if you continue to
22 taxi
23 With that set of facts in your head, sir, as
24 the pilot in command, would you stop or would you
25 continue to taxi without knowing whether or not you were

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1 THE WITNESS: I cannot image what sort of
2 situation that would be
3 MR TORPEY: Q Well, with all due respect,
4 sir, I'm going to say that I don't think that was a
5 responsive answer I'm going to move to strike. I
6 don't want to argue with you, but it's clear that you
7 have come here with a certain perception on what to say
8 in response to these questions, and I'm going to have to
9 move on to something else
10 And unless you have something else to say with
11 regard to the situations I've presented, and I'll give
12 you that opportunity now, I'm going to move to another
13 topic because it's pointless for me to continue asking
14 questions
15 MR TURNER: It is improper for you to
16 continue asking improper questions and incomplete
17 hypotheticals, and your comments are unprofessional and
18 demeaning
19 MR TORPEY: Q Do you have anything further
20 to add, Mr Usui, or have you said all you are going to
21 say on that topic?
22 A Since I do not understand that situation, I
23 cannot make an explicit comment
24 MR TORPEY: Q Well, I will have to move on,
25 and we'll deal with this at another time

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1 Does ANA do any other training with its pilots
2 with regard to what to do in a situation when they are
3 confronted during taxi with a possible collision with
4 another aircraft?
5 A There is no training
6 Q In order to get any of the professional
7 aviation licenses that you hold, did you receive any
8 such training?
9 A Are you talking about collision avoidance
10 during taxiing?
11 Q That's correct. Are you trained or instructed
12 at any time by anyone with regard to that topic?
13 A No
14 Q And so if confronted with a possible collision
15 hazard during taxiing, the company, ANA in this case,
16 just expects you to figure it out on your own; right?
17 MR TURNER: Objection as to form and
18 foundation
19 THE WITNESS: It does not say figure it out on
20 your own. It says observe safety when taxiing
21 MR TORPEY: Q Where does it say that?
22 A All pilots have that understanding.
23 Q And if you were to taxi or continue taxiing
24 and there was a possibility that you were going to
25 collide with another aircraft and if you did not stop or

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1 take other actions to make sure you were not going to
2 collide with that other aircraft, then you would not be
3 operating your aircraft safely during taxi; correct?
4 MR TURNER: Objection as to form and
5 foundation, incomplete hypothetical
6 THE WITNESS: We pilots taxi while confirming
7 safety
8 MR TORPEY: Q As a proficiency examiner for
9 ANA, if you were onboard an aircraft and the pilot
10 continued to taxi, even though he was cleared to taxi,
11 he continued to taxi despite the fact that you saw a
12 potential collision hazard and that pilot had not taken
13 any action to confirm whether or not the aircraft was
14 going to collide into that other aircraft, would you
15 feel that the pilot observed safety while taxiing if he
16 continued to taxi?
17 MR TURNER: Objection to form, incomplete
18 hypothetical
19 THE WITNESS: It is unthinkable to us that a
20 PIC would taxi without confirming safety
21 MR TORPEY: Q And if, in fact, a PIC did
22 taxi without confirming safety, that would be a
23 violation of the company policy to observe safety while
24 taxiing?
25 MR TURNER: Objection to form, incomplete

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1 hypothetical
2 THE WITNESS: I don't know unless I am in such
3 a situation. I do not know if it would be a violation
4 MR TORPEY: Q I guess I'll move on to
5 something else. I don't want to argue with you, sir
6 So let me ask you, in a situation where --
7 let's say that were you the pilot in command of a 777 at
8 San Francisco International airport and you were taxiing
9 from the engine-stop line to spot 10, the transition
10 area, and you were cleared by ramp control to proceed
11 from the start line to spot 10
12 If you perceived a potential collision hazard
13 as you were taxiing, one of the things you could do in
14 order to observe safety while taxiing, is you could
15 stop; isn't that true?
16 MR TURNER: Objection as to form, incomplete
17 hypothetical
18 THE WITNESS: I do not know what kind of
19 situation that is, but if the ramp tower instructs me to
20 go to spot 10, I would do so as I confirm safety while
21 doing so, and I do not know where that other aircraft is
22 in your question
23 MR TORPEY: Q Well, Mr Usui, one of the
24 things you could do as you put it, while confirming
25 safety, is to stop the taxi until you did, in fact,

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1 confirm it was safe to continue taxiing. That's an
2 option to you, sir, isn't it?
3 MR TURNER: Objection as to form, incomplete
4 hypothetical
5 THE WITNESS: If the other aircraft was right
6 in front of me, then I would stop, but I do not -- but
7 since I don't know what the situation is, I would go to
8 spot 10. You are asking me the same question, and the
9 answer is the same
10 MR TORPEY: Q If you did not know which
11 direction the other aircraft was going to go, so it was
12 a moving target and therefore could potentially get in
13 the way of your taxi, one of the options for you is to
14 stop the taxi until you know whether or not that other
15 aircraft is a potential collision hazard; isn't that
16 true, sir?
17 MR TURNER: Objection as to form, incomplete
18 hypothetical
19 THE WITNESS: In such a situation I believe
20 there will be an instruction from the ramp tower
21 MR TORPEY: Q But what if there was no
22 instruction? Would you call and ask the ramp tower?
23 MR TURNER: Objection as to form, incomplete
24 hypothetical
25 THE WITNESS: I believe there will be an

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| <p>1 instruction from ramp control, and I would wait for it 2 MR TORPEY: Q But what if it did not come 3 for whatever reason and you continued to taxi and you 4 were getting closer to the other airplane and you still 5 didn't know whether you were going to run into it 6 Would you continue to taxi until you ran into 7 it, or would you stop and then call and wait until you 8 did confirm with ramp control that you weren't going to 9 run into it? 10 MR. TURNER: Objection as to form, incomplete 11 hypothetical 12 THE WITNESS: I would lower the speed 13 MR. TORPEY: Q. But even lowering the speed, 14 if you still didn't know whether or not you were going 15 to collide with the other aircraft, as a safe pilot in 16 command, wouldn't you stop your airplane until you were 17 able to confirm with the ramp control that you were not 18 going to collide? 19 MR. TURNER: Objection as to form, incomplete 20 hypothetical 21 THE WITNESS: We received clearance from ramp 22 control to proceed to spot 10 That means that there is 23 no possibility of collision If another aircraft 24 approaches, then ramp control must instruct that other 25 aircraft</p> <p>Page 50</p> | <p>1 MR TURNER: Objection as to form, incomplete 2 hypothetical 3 THE WITNESS: The fact that we received 4 clearance from ramp control to proceed to spot 10 means 5 that we can taxi to that spot We have priority or 6 supersedence. 7 MR TORPEY: Again, I'll move to strike But 8 I think the record is made clear that the witness will 9 not answer that question 10 I'd like to see the exhibits from yesterday 11 Who has the exhibits? 12 (Noon recess taken) 13 THE VIDEOGRAPHER: Coming back on the record 14 The time on the monitor is 1:57 p m Please begin 15 MR TORPEY: Q Mr Usui, would you look at 16 Exhibit 2 that's in front of you, please 17 A Yes. 18 Q If you look at the second page of Exhibit 2 19 under taxi, under subpart 5, let's take a moment and 20 read subpart 5 At the beginning of taxi, it says 21 captain shall perform taxi in accordance with the 22 following, and subpart 5 says, ask for a signalman 23 assistance in the event that there's any obstacle in the 24 vicinity of the ramp area 25 What does that mean to you?</p> <p>Page 52</p> |
| <p>1 MR TORPEY: Q What if ramp control for 2 whatever reason in your situation just given to us could 3 not reach your aircraft? Does that mean that the 4 clearance allows you to run into the other aircraft? 5 MR. TURNER: Objection as to form, foundation, 6 incomplete hypothetical 7 THE WITNESS: I don't understand your 8 question 9 MR. TORPEY: Why don't you read back the last 10 question -- last two questions and last answers in 11 English 12 (Record read by the reporter) 13 MR. TORPEY: Q: Mr Usui, if you're taxiing 14 your aircraft after being cleared by ramp control to 15 proceed from the engine-start line to spot 10 and you 16 perceive there is a collision hazard with another 17 aircraft, and even though ramp control cleared you to 18 spot 10, you don't know for sure whether or not you're 19 going to run into the other aircraft and even if you 20 slow your aircraft upon perceiving the potential 21 collision hazard, if for whatever reason ATC or ramp 22 control cannot reach you or you cannot reach it, do you 23 believe that you should stop your aircraft, or should 24 you continue and just see whether or not you run into 25 the other aircraft?</p> <p>Page 51</p> | <p>1 A They are talking about the time when the 2 taxiing is starting 3 Q When it's starting, do you mean before the 4 engine-start? 5 A Ordinarily the engine pushback is done at the 6 spot or it could be done in this way For example, at 7 San Francisco Airport, the aircraft is brought to the 8 engine-start point where the engine is started But, in 9 any case, taxiing begins after engine-start 10 Q Well, would it be during -- would subpart 5 11 that I just read you regarding asking a signalman for 12 assistance in the event there is an obstacle in the area 13 of the ramp area, would that apply to the situation 14 where you completed the pushback, have been released 15 from the tug, and are now on your own power beginning to 16 taxi through the ramp area? 17 A The situation is unclear, so I cannot answer 18 in a clear manner 19 Q In other words, you don't know whether that 20 provision I just read you would apply to a situation 21 where an ANA aircraft was released from the tow and was 22 under its own power moving in a ramp area? 23 A Subpart 5 talks about a situation before 24 taxiing, therefore, if there is no obstacle in the 25 vicinity, there would be an okay from the signalman</p> <p>Page 53</p> |

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| <p>1 Q Okay So as you read subpart 5, that's</p> <p>2 something that applies before the taxi begins; correct?</p> <p>3 A Yes I think so because at the top it is</p> <p>4 written the captain shall perform taxi in regards with</p> <p>5 following</p> <p>6 Q This is a manual -- this is the operations</p> <p>7 manual that applies to your operating of a 777 aircraft;</p> <p>8 correct?</p> <p>9 A It is not limited to 777</p> <p>10 Q But it applies to the 777; right?</p> <p>11 A Yes, it applies to all aircrafts</p> <p>12 Q How about under section 2, subpart 2, be</p> <p>13 observant of all obstacles around him and taxiing speed</p> <p>14 is such that he may bring his airplane to an immediate</p> <p>15 and a complete stop</p> <p>16 Would that apply to you as the flying pilot in</p> <p>17 command or the flying pilot of a 777 that was taxiing to</p> <p>18 the engine-start line to spot 10 at San Francisco</p> <p>19 Airport?</p> <p>20 A If there is clearance, we will go on, but I</p> <p>21 don't clearly understand what the situation is</p> <p>22 Q Well, sir, as a pilot and a trainer for ANA,</p> <p>23 isn't it your responsibility to understand and follow</p> <p>24 the operations manual including the provisions in</p> <p>25 Exhibit 2 at paragraph 2, subpart 2, that I just read to</p> <p style="text-align: right;">Page 54</p> | <p>1 complete stop so that you do not run into the other</p> <p>2 aircraft?</p> <p>3 A According to the operations manual, that would</p> <p>4 be the case, but I don't understand what the situation</p> <p>5 that you mention is specifically, so I cannot answer</p> <p>6 Q Well, let me give you a specific situation</p> <p>7 Let's say that you were cleared by ramp</p> <p>8 control at San Francisco to taxi your 777 aircraft from</p> <p>9 the engine-start line to spot 10, and as you were</p> <p>10 taxiing and observing all obstacles around you as</p> <p>11 required by the operations manual, you saw another</p> <p>12 aircraft and you did not know whether or not you were</p> <p>13 going to collide with that other aircraft</p> <p>14 In that specific situation, would you be</p> <p>15 required to bring your airplane to an immediate and</p> <p>16 complete stop?</p> <p>17 MR TURNER: Objection as to form and</p> <p>18 incomplete hypothetical</p> <p>19 THE WITNESS: I would act according to the</p> <p>20 operations manual, but since I do not have a clear</p> <p>21 understanding of that situation, I do not know what I</p> <p>22 would do</p> <p>23 MR TORPEY: Q What's unclear in what I just</p> <p>24 asked you, sir?</p> <p>25 A I do not have an understanding of the entire</p> <p style="text-align: right;">Page 56</p> |
| <p>1 you?</p> <p>2 A Quite naturally</p> <p>3 Q Is that a yes?</p> <p>4 A We observed the operation manual and operate</p> <p>5 the aircraft based on it</p> <p>6 Q Okay Now, given that statement, tell me,</p> <p>7 sir, what your interpretation is of the provision in</p> <p>8 Exhibit 2 under section 2, subpart 2 that says, be</p> <p>9 observant of all obstacles around him and taxiing speed</p> <p>10 is such that he may bring his airplane to an immediate</p> <p>11 and complete stop</p> <p>12 In the context of applying that instruction to</p> <p>13 an aircraft taxiing at San Francisco Airport from the</p> <p>14 engine-start line to spot 10, explain to me what should</p> <p>15 happen in order to comply with that particular</p> <p>16 paragraph</p> <p>17 I'm going to withdraw the question Let me</p> <p>18 rephrase it</p> <p>19 Subpart 2 says, be observant of all obstacles</p> <p>20 around him and taxiing speed is such that he may bring</p> <p>21 his airplane to an immediate and complete stop</p> <p>22 In order to comply with that direction, if you</p> <p>23 perceived during taxi that you were going to collide</p> <p>24 with another aircraft, would you be required to not only</p> <p>25 slow, but bring your aircraft to an immediate and</p> <p style="text-align: right;">Page 55</p> | <p>1 situation</p> <p>2 Q What's unclear about the set of facts that I</p> <p>3 just gave you, sir?</p> <p>4 A Really, I could not know unless I am in that</p> <p>5 situation</p> <p>6 Q Well, I'm going to ask you to put yourself in</p> <p>7 that situation. All right I'm asking you to put</p> <p>8 yourself in the cockpit of a 777 aircraft at</p> <p>9 San Francisco International Airport I'm asking you to</p> <p>10 put yourself in that position as pilot in command and</p> <p>11 flying pilot of that aircraft, put yourself in that</p> <p>12 position as someone who's the training officer for ANA</p> <p>13 I'm asking you to put yourself in that</p> <p>14 situation, having been given clearance by ramp control</p> <p>15 to taxi from the engine-start line to spot 10. I'm</p> <p>16 asking you to put yourself in that position taxiing and</p> <p>17 then you observe in compliance with your operations</p> <p>18 manual obstacles around you</p> <p>19 I'm asking you to put yourself in that</p> <p>20 position where you observe another aircraft while</p> <p>21 taxiing according to the clearance to spot 10 I'm</p> <p>22 asking you if you observed another aircraft and you, as</p> <p>23 the pilot in command, do not know, do not know for sure,</p> <p>24 whether or not you are going to run into that other</p> <p>25 aircraft.</p> <p style="text-align: right;">Page 57</p> |

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1 Does this policy in your operations manual
2 require you in that situation I have just presented to
3 you, sir, to bring your airplane to an immediate and
4 complete stop?
5 MR. TURNER: Objection as to form and
6 incomplete hypothetical
7 THE WITNESS: I will act according to the
8 operations manual, but quite frankly I do not know what
9 I would do unless I am in the plane
10 MR. TORPEY: Q Well, not to give you the
11 impression it was responsive, it wasn't, but I'll move
12 on to another question
13 With regard to Exhibit 9, Mr. Usui, would you
14 please turn to that. If you would look at Exhibit 9
15 this is a page from the same operations manual as
16 Exhibit 2; correct? Only this is dated 1999, in other
17 words, it's a previous page from the operations manual
18 A By previous page, are you talking about
19 Exhibit 8?
20 Q I'll withdraw the question.
21 Look at Exhibit 9, Mr. Usui. If you look at
22 subpart 2, this document is in Japanese. Does that
23 subpart 2 talk about taxi?
24 A That's right.
25 Q And if you look under section 2, subpart 2,

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1 translated from Exhibit 9; correct?
2 THE INTERPRETER: Yes
3 MR. TURNER: Thank you
4 MR. TORPEY: Q Mr. Usui, would you look at
5 Exhibit 9 and tell me if there's anything anywhere on
6 Exhibit 9 that is similar or identical to the language
7 under section 2, subpart 2 of Exhibit 2 regarding being
8 observant of all obstacles?
9 A That would be subpart 2 of section 3
10 Q Okay. And I would ask, Satoe, would you read
11 that that he pointed out into the record, please
12 So for the record, this is Exhibit 9,
13 subpart 3, section 2.
14 THE INTERPRETER: In order to avoid contact
15 with people or objects outside the aircraft, he should
16 be observant -- or he should observe the vicinity, and
17 he shall operate at a speed that will allow smooth and
18 safe stopping
19 MR. TORPEY: Q Now, let me ask you,
20 Mr. Usui, to look at -- strike that
21 Exhibit 9 is dated 1999. You can see that at
22 the bottom; correct?
23 A Yes
24 Q Now, look at Exhibit 8, which at the bottom is
25 dated 2004

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1 which again is in Japanese, is that the same instruction
2 as the one I just asked you about at section 2,
3 subpart 2 of Exhibit 2, which states, be observant of
4 all obstacles around him and taxiing speed is such that
5 he may bring his airplane to an immediate and complete
6 stop?
7 A The content is different
8 Q Okay. How is it different?
9 MR. TURNER: We're comparing the second --
10 number 2 under the 2 in a circle we're comparing to the
11 2 in the parentheses; is that correct? On both of them,
12 on Exhibit 9 and the second page of Exhibit 2
13 MR. TORPEY: Well, I'm asking him to compare
14 the subpart 2, section 2
15 MR. TURNER: The 2 in parentheses under the 2s
16 in the circles?
17 MR. TORPEY: That's correct
18 THE INTERPRETER: The interpreter will
19 translate
20 The signalman will show the signal from a
21 position that is easy for the pilot to confirm the
22 signal and in a way that the captain can easily make a
23 judgment. Also, according to necessity, the signalman
24 will position and assisting personnel
25 MR. TURNER: Just to be clear, that it was

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1 A Yes
2 Q Would you let me know if there's any language
3 similar to what was just read from Exhibit 9, that is
4 section 3 2, is there any similar language in the
5 exhibit anywhere?
6 A Yes. It is here, and it would be subpart 2 of
7 section 3
8 Q And it's the same language as you read to us
9 from Exhibit 9?
10 A Yes
11 Q And do you have any knowledge that -- strike
12 that
13 Since it appears that in 1999 and 2004 that
14 instruction was not changed, do you believe that on
15 October 7 of 2003 that that was an instruction that
16 would have been in the operations manual and would have
17 been required to be followed on October 7 of 2003?
18 A Yes. We followed the operations manual, but
19 in the English version it says, quote, complete stop,
20 close quote. Whereas, we were looking at the manual
21 that says, taxi at a speed wherein smooth and safe
22 stopping is possible
23 Q But the language that you read in Japanese
24 would have applied to the operation of aircraft
25 including at San Francisco on October 7 of 2003;

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1 correct?
2 A It is as the operation manual says
3 Q But the question, sir, is the language that
4 you read in Exhibits 8 and 9 that is in Japanese, do you
5 agree with me that those instructions would have applied
6 to the operation of an ANA aircraft at San Francisco on
7 October 7 of 2003?
8 A Rather than applying, we are operating
9 according to this manual
10 Q And the instruction that you read from
11 Exhibit 8 and 9 was an instruction that you operated
12 pursuant to on October 7 of 2003; correct?
13 One correction Required to operate pursuant
14 to. Excuse me
15 MR TURNER: Objection as to form I'd ask
16 that you restate it I'm not sure what you were
17 changing
18 MR TORPEY: I'll restate the question
19 Q Since the operations manual, which is 1999 and
20 marked as Exhibit 9 and the 2004 version, which is
21 marked as Exhibit 8, contain identical language in
22 Japanese which you've read into the record, do you agree
23 with me, sir, that that instruction that you read is one
24 that you were required to follow in operating aircrafts
25 on October 7 of 2003?

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1 A It is not a requirement We operated
2 according to the manual
3 Q It is a requirement You cannot -- you as an
4 ANA pilot cannot operate your aircraft unless it's in
5 compliance with ANA's operation manual; isn't that true?
6 MR TURNER: Objection as to form and
7 foundation I ask that you not just argue with the
8 witness
9 CHECK INTERPRETER: There was an objection,
10 Lead Interpreter
11 MR TURNER: My objection, please
12 THE INTERPRETER: Can you read the objection
13 (Record read by the reporter)
14 THE WITNESS: We worked according to the
15 operations manual
16 MR TORPEY: Q Now, when you were -- what
17 was your role on October 7 of 2003 with regard to the
18 collision at San Francisco Airport?
19 A My role was as a multi-captain.
20 Q What's a multi-captain?
21 A The flight between San Francisco and Tokyo is
22 a long one, and it is not possible for only two people
23 to do the total operation, therefore, the captain formed
24 a team of PIC, multi-captain, and copilot to cover the
25 long flight

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1 Q Have there ever been any other occasions that
2 you're aware of where an ANA aircraft has collided with
3 another aircraft at any time, at any place?
4 A There was no collision I am not totally
5 certain.
6 Q The question, sir, is do you have any
7 knowledge of any other accident or incident involving an
8 ANA aircraft colliding with another aircraft at any
9 place, at any time?
10 A I do not know
11 Q Who in your company would know if there were
12 any other accidents or incidents involving collisions
13 with other aircraft aside from the one at San Francisco
14 that we're here on today?
15 A I do not have a clear knowledge
16 Q When you say you don't have a clear knowledge,
17 does that mean that you don't know the answer?
18 A I don't know who would know
19 Q I asked you earlier, I apologize and I didn't
20 follow up on this, but who is the chief pilot for the --
21 in other words, who is the lead pilot for the 777 fleet
22 of ANA at this point?
23 THE INTERPRETER: The interpreter needs to
24 confirm one word
25 THE WITNESS: There is a chief for the 777

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1 flight crew, and by -- I mean the captain and other
2 pilots, and there is another chief for the training
3 department, so there would be two
4 MR TORPEY: Q Tell me their names and which
5 is for which department
6 A I'm not clear on that at this point
7 Q Who do you report to? Who is your supervisor
8 or boss?
9 A My boss is not the chief He's a leader
10 Q What is his name?
11 A They change sometimes The leaders change, so
12 he is not fixed
13 Q On this day that you're here today, sir, who
14 is your leader, your boss?
15 A By that do you mean the leader or the chief?
16 Q Both Give me names, sir
17 A Is there something about giving names
18 Q I would like to know the names, sir, please
19 MR TURNER: Just for the witness's
20 edification, from my point of view I have no objection
21 to him identifying people to whom he reports But I
22 don't know if there may be some company policy that he
23 may have been referring to.
24 THE WITNESS: I would like to ask what
25 happens, what is the next step after the name is given.

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17 (Pages 62 to 65)

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| <p>1 MR TORPEY: Q Well, could be nothing It 2 could be we want to depose that person to ask about 3 things that you said here and then we might want to ask 4 that person's boss A lot of things might happen 5 That's why we're here is to find out what the truth is 6 And if we need to depose others to get the truth, then 7 we do it If we get it here today, then we might not 8 So I really don't know the answer to your question, sir 9 MR TURNER: I would just suggest that since 10 the witness seems to have some concerns, which I have no 11 idea of whether it's a valid concern or not, that we 12 leave a blank in the transcript here and that we can -- 13 he can check with his superiors in the company to find 14 out if there's some reason why he should not 15 MR TORPEY: No Absolutely not I want him 16 to answer the question 17 Q If you refuse to answer, then I will move on 18 to something else So please give me an answer 19 A Rather than ask me, I would prefer you to ask 20 my company for my boss' name 21 Q Sir, either give me names or tell me you will 22 not give me names so we don't waste any more time on 23 this. I want the answer from you 24 A I can't say the name, so if you would like to 25 know the name, please go through my company</p> <p>Page 66</p> | <p>1 are not going to give me names 2 Let's move on to the events of October 7 of 3 2003 Where were you seated in the cockpit? 4 A There are two seats behind the PIC and copilot 5 seats, and I was seated on the left side 6 Q So you were seated behind the captain in other 7 words? 8 A No My seat would be between the PIC and 9 copilot seats 10 Q So that was sort of -- that's fine I have 11 enough 12 From the time you got into the aircraft and 13 the aircraft -- strike that 14 At any time during the segment from when the 15 aircraft was pushed back from the gate up until the 16 impact, did you stay at all times in the cockpit? 17 A Yes 18 Q Okay And at all times from the moment of 19 pushback until the impact, did you at all times remain 20 seated in that seat that you just described you were in? 21 A Yes, I was 22 Q Did you have to wear a harness, in other 23 words, a shoulder harness and lap belt, you were 24 strapped in? 25 A Yes</p> <p>Page 68</p> |
| <p>1 Q Why can't you say the name, sir? 2 A As you said earlier, if I give the name, 3 nothing may happen, so then there is no necessity 4 Q Sir, that's not what I said I said I wanted 5 the names and we may have to depose them and their 6 bosses or we may not depending on what we feel we need 7 to do 8 Now, I don't want to argue with you. 9 MR TURNER: Well, then why don't you stop 10 arguing with him and get on I've given you 11 alternatives Why don't you press on 12 MR TORPEY: I am pressing on I want an 13 answer from this witness. 14 Q Are you refusing to answer my question? 15 A I'm not refusing I'm saying that if you need 16 to know the name, please ask my company 17 Q No I will not ask your company because your 18 company is not here giving a deposition, you are 19 Please give me the names since you said you are not 20 refusing Tell me who it was that is the two 21 individuals that you mentioned earlier that you report 22 to as of today 23 A As I already said, I cannot say 24 Q I think we already understand your answer, 25 sir, so I'll move on to something else Apparently you</p> <p>Page 67</p> | <p>1 Q And you did not remove that until after the 2 impact; correct? 3 A No I did 4 Q What point prior to the impact did you remove 5 your harness and/or seat belt? 6 A I don't know exactly when 7 Q Did you remove the harness and the lap belt 8 and get out of the seat? 9 A Yes 10 Q And were you standing or seated at the time of 11 the impact? 12 A I was seated 13 Q I know you said you don't recall when you 14 removed the harness and belt and got out of your seat 15 exactly. Do you know how long it was that you were out 16 of the seat before you sat back down again? 17 A No I do not have a clear recollection 18 THE VIDEOGRAPHER: One minute, counsel 19 MR TORPEY: Q Do you have any recollection, 20 or would it be a complete guess? 21 A I only want to say what is clear, so I don't 22 know at this point 23 MR TORPEY: Fair enough Why don't you 24 change the tape 25 THE VIDEOGRAPHER: This concludes Videotape 2</p> <p>Page 69</p> |

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| <p>1 in the deposition of Teruo Usui Going off the record</p> <p>2 The time is 2:54 p.m.</p> <p>3 (Recess taken)</p> <p>4 THE VIDEOGRAPHER: Here begins Videotape 3 of</p> <p>5 the deposition of Teruo Usui Coming back on the</p> <p>6 record The time on the monitor is 3:05 p.m. Please</p> <p>7 begin</p> <p>8 MR. TORPEY: Q Mr. Usui, you indicated you</p> <p>9 took your seat belt off and got up and sat back down in</p> <p>10 your seat Did you refasten your belt or your shoulder</p> <p>11 harness when you did that?</p> <p>12 A Yes</p> <p>13 Q And you indicated you don't know how long</p> <p>14 before the impact it was that you got up -- strike that</p> <p>15 Do you know how long before the impact it was</p> <p>16 that you got out of your seat?</p> <p>17 A I'm not clear about the timing</p> <p>18 Q And as you said before, when you say you're</p> <p>19 not clear, you really don't know? You would have to</p> <p>20 guess?</p> <p>21 A I'm saying I do not recall</p> <p>22 Q And I take it you also don't recall how much</p> <p>23 time elapsed from the time you got back in your seat</p> <p>24 until the time of the impact either; correct?</p> <p>25 A I do not recall</p> <p style="text-align: right;">Page 70</p> | <p>1 pushing back from the gate?</p> <p>2 A I do not recall</p> <p>3 Q And from the time you first saw the United</p> <p>4 aircraft until the time of the impact, did you ever take</p> <p>5 your eyes off of it, in other words, direct your</p> <p>6 attention other than watching the United aircraft?</p> <p>7 A I do not have a clear recollection</p> <p>8 Q And when you say you don't have a clear</p> <p>9 recollection, you don't know?</p> <p>10 A I may have been looking at it, or I may have</p> <p>11 been looking towards the front That is what I'm</p> <p>12 saying</p> <p>13 Q When you say looking towards the front,</p> <p>14 looking somewhere other than at the United Airlines?</p> <p>15 A Well, one can't see the outside very well from</p> <p>16 the rear seat</p> <p>17 Q Even if you were looking straight forward,</p> <p>18 would you still see the United aircraft out of your</p> <p>19 peripheral vision from your seat?</p> <p>20 A I do not have a clear recollection</p> <p>21 Q You said you did not have a clear recollection</p> <p>22 when you first saw United, whether it was</p> <p>23 stopped -- strike that -- whether it had started its</p> <p>24 push or not, does that mean that you have no</p> <p>25 recollection and cannot say whether it was stopped --</p> <p style="text-align: right;">Page 72</p> |
| <p>1 Q Was there discussion going on in the cockpit</p> <p>2 between yourself and the other two crew members at the</p> <p>3 time you were leaving the engine-start line up to the</p> <p>4 point of the impact?</p> <p>5 A By discussion, are you inquiring what the</p> <p>6 discussion was about?</p> <p>7 Q Well, I just asked you first if there was</p> <p>8 discussion So apparently there was discussion between</p> <p>9 yourself and the other two crew members from the point</p> <p>10 you left the engine-start line up to the point of</p> <p>11 impact; correct?</p> <p>12 A I do not recall</p> <p>13 Q So you don't recall -- strike that</p> <p>14 What was the purpose of your getting out of</p> <p>15 the seat for the taxi for the period of time we talked</p> <p>16 about?</p> <p>17 A It was to look at the aircraft that was</p> <p>18 pushing back from gate 102</p> <p>19 Q That would be the United aircraft?</p> <p>20 A Yes</p> <p>21 Q Okay Now, did someone ask you to get up and</p> <p>22 look, or did you on your own decide to get up and look?</p> <p>23 A I do not have a clear recollection</p> <p>24 Q When you personally first saw the United</p> <p>25 aircraft, was it stopped, or had it already started</p> <p style="text-align: right;">Page 71</p> | <p>1 let me start over.</p> <p>2 You do not have any recollection as to</p> <p>3 whether, when you first saw the United aircraft, the</p> <p>4 United aircraft had started its pushback or whether it</p> <p>5 was still stationary at the gate before the pushback?</p> <p>6 You don't have a recollection one way or the other on</p> <p>7 that; correct?</p> <p>8 A That's right</p> <p>9 Q At any time after you were able to see the</p> <p>10 United aircraft, did it ever get to a point prior to the</p> <p>11 impact where the United aircraft was no longer in your</p> <p>12 field of view?</p> <p>13 A No</p> <p>14 Q And were you looking at the United aircraft at</p> <p>15 the time you felt the impact?</p> <p>16 A No I was seated</p> <p>17 Q From where you were seated, were you able to</p> <p>18 see the United aircraft if you wanted to look at it?</p> <p>19 A I could see the plane</p> <p>20 Q And since you could see the plane from the</p> <p>21 seated position, were you looking at the plane, the</p> <p>22 United plane, at the time you felt the impact?</p> <p>23 A I do not have a clear recollection</p> <p>24 Q You said you could see the plane What</p> <p>25 portion of the United plane could you see from your</p> <p style="text-align: right;">Page 73</p> |

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| <p>1 seated position?</p> <p>2 A The plane itself</p> <p>3 Q The entire plane from front to back?</p> <p>4 A No I couldn't see the entire plane</p> <p>5 Q Could you see everything from the wing</p> <p>6 structure aft?</p> <p>7 A You mean during the time leading to the</p> <p>8 impact?</p> <p>9 Q Yes</p> <p>10 A Before the impact, it was behind the wing</p> <p>11 Q You could see everything behind the wing</p> <p>12 before the impact? Is that what you're saying?</p> <p>13 A I could not recall if it was everything</p> <p>14 Q Tell me something you do recall you could see</p> <p>15 aft of the wing?</p> <p>16 A I could see the windows next to the seat, not</p> <p>17 all the windows</p> <p>18 Q Were you able to see the tail, the vertical</p> <p>19 tail?</p> <p>20 A I do not recall clearly</p> <p>21 Q Did you ever notice the United aircraft stop</p> <p>22 its pushback at some point prior to the impact?</p> <p>23 A I don't know if it stopped or not</p> <p>24 Q When you got out of your seat prior to the</p> <p>25 impact, tell me where you went and what you did</p> <p>Page 74</p> | <p>1 close</p> <p>2 MR TORPEY: Q As a crew member, even though</p> <p>3 you were not a flying crew member, you had an obligation</p> <p>4 for the safety of its aircraft and its passengers during</p> <p>5 that taxi; correct?</p> <p>6 A It is as the operation manual that we looked</p> <p>7 at says</p> <p>8 MR TORPEY: Why don't you read back the</p> <p>9 question.</p> <p>10 (Record read by the reporter)</p> <p>11 MR TORPEY: Q Please answer that question</p> <p>12 A It was not as if I was not a flying crew</p> <p>13 member. I was a flying member</p> <p>14 Q And so you have the same safety obligations as</p> <p>15 the other two pilots during that taxi; correct?</p> <p>16 A Yes</p> <p>17 Q Now, when you got up to look at the United</p> <p>18 aircraft during the taxi because it was closer than</p> <p>19 usual, did you do so to try to confirm whether or not</p> <p>20 there was a potential collision hazard between your</p> <p>21 aircraft and the United aircraft?</p> <p>22 A It was closer than usual, but I wasn't</p> <p>23 thinking about potential</p> <p>24 Q So in getting out of your seat and looking at</p> <p>25 the United aircraft -- strike that</p> <p>Page 76</p> |
| <p>1 THE INTERPRETER: Can you give me that</p> <p>2 (Record read by the reporter)</p> <p>3 THE WITNESS: I looked outside from the right</p> <p>4 rear-most window I looked at the United Airline</p> <p>5 aircraft</p> <p>6 MR TORPEY: Q What was your reason for</p> <p>7 getting out of your seat and looking out of the right</p> <p>8 rear-most window at the United aircraft prior to impact?</p> <p>9 A Because I felt it was closer</p> <p>10 THE INTERPRETER: The interpreter will</p> <p>11 restate</p> <p>12 THE WITNESS: Because I felt that it was</p> <p>13 slightly closer than usual</p> <p>14 MR TORPEY: Q Why does that matter?</p> <p>15 A Because it was closer than usual</p> <p>16 Q But why does it matter to you that it's closer</p> <p>17 than usual -- let me rephrase it</p> <p>18 The fact that it was closer than usual, why</p> <p>19 did that cause you to get up and look at it?</p> <p>20 A There's no reason why I should not stand up</p> <p>21 and look</p> <p>22 Q Well, just because something is closer than</p> <p>23 usual, why would you get up and look at it?</p> <p>24 MR TURNER: Objection as to form</p> <p>25 THE WITNESS: I simply looked because it felt</p> <p>Page 75</p> | <p>1 Before getting out of your seat and looking at</p> <p>2 the United aircraft, did you believe there was any</p> <p>3 possibility at all that you would collide with the</p> <p>4 United aircraft?</p> <p>5 A Before I got out of the seat?</p> <p>6 MR TORPEY: Why don't you read back the</p> <p>7 question</p> <p>8 (Record read by the reporter)</p> <p>9 THE WITNESS: I do not have a clear</p> <p>10 recollection</p> <p>11 MR TORPEY: Q And in getting up out of your</p> <p>12 seat and looking at the United aircraft and then getting</p> <p>13 back into your seat, did you feel that there was any</p> <p>14 possibility of a collision between your aircraft and the</p> <p>15 United aircraft?</p> <p>16 A No Because I did not feel any possibility,</p> <p>17 taxiing was continued</p> <p>18 Q So after you got up and looked out the right</p> <p>19 rear-most window, you came to the determination that</p> <p>20 there was no possibility that your aircraft was going to</p> <p>21 collide with the United aircraft?</p> <p>22 A The three of us together</p> <p>23 Q So then after you got out of the seat, looked</p> <p>24 in the right rear-most window and got back into your</p> <p>25 seat, you, as well as the other two crew members,</p> <p>Page 77</p> |

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| <p>1 thought there was no possibility of a collision between 2 your aircraft and the United aircraft; correct? 3 A We felt assured that there was no possibility 4 and continued taxiing 5 Q Okay Now, prior to the time you got up and 6 looked out the window and sat down, had the aircraft 7 slowed its taxi speed? 8 MR TURNER: Can I have that question back in 9 English 10 (Record read by the reporter) 11 THE WITNESS: I do not recall about that 12 MR TORPEY: Q Prior to the time you got out 13 of your seat and looked at the United aircraft and then 14 sat back down, had the aircraft deviated to the left of 15 the centerline at all? 16 A No, I don't think it had deviated 17 Q At some point after you sat down, did the ANA 18 aircraft deviate left of centerline prior to the impact? 19 A I don't know 20 Q Do you know if at any time between the 21 engine-start line and the impact whether the ANA 22 aircraft deviated left of centerline? 23 A It kept the centerline 24 Q So at all times including right up to the 25 impact, from your vantage point, there was never a</p> <p style="text-align: right;">Page 78</p> | <p>1 centerline, it would mean that the aircraft is lined up 2 with the centerline 3 Q And since the nose is part of the aircraft, 4 it's the front tip of the aircraft, that means that the 5 nose would be lined up with the centerline; correct? 6 A I'm not sure 7 Q What do you mean when you say that an 8 aircraft -- strike that 9 You indicated that yourself and the other two 10 pilots, after you sat back down in your seat from 11 looking out the window, felt that there was no collision 12 hazard 13 Let me ask you if, however, after you sat back 14 in your seat you felt that you did not know whether or 15 not there was a collision hazard, in that situation, 16 what would you have recommended to the crew that they 17 should do? 18 MR TURNER: Objection as to form 19 THE WITNESS: I would not know unless I am in 20 such a situation 21 MR TORPEY: Q Well, you were in that 22 situation, sir. You were in that situation. You were 23 in that cockpit that day. And what I'm asking you to do 24 is put yourself back in that spot. But I want to change 25 one thing. I want you to assume that you did not know</p> <p style="text-align: right;">Page 80</p> |
| <p>1 deviation off of the centerline; correct? 2 A That's right 3 Q And we say deviate off centerline. We're 4 talking about the nose of the aircraft lining up with 5 the yellow centerline on the taxiway; correct? 6 A Main gear is the rear gear, but the middle of 7 the main gear would be the centerline 8 Q How does a pilot sitting in the right-hand 9 seat of that aircraft know whether or not they're lined 10 up with the centerline? 11 A The person at the right seat, I cannot give a 12 clearcut explanation 13 Q Have you ever been in the right seat of a 777 14 taxiing? 15 A Yes 16 Q How do you line up with the centerline? 17 A If I am at the right seat, I would have my 18 left leg or the attachment of my left leg be on the 19 centerline. Also, the measuring instrument would be of 20 reference. It is hard to explain 21 Q In order for an aircraft to be considered on 22 the centerline, would the nose of the aircraft be lined 23 up essentially with the centerline? 24 A If the centerline is between the main gear and 25 the main gear, and if the nose gear is on the</p> <p style="text-align: right;">Page 79</p> | <p>1 when you looked out that window whether or not you were 2 going to clear that United airplane 3 With that change in mind, what would you tell 4 that crew to do? 5 MR TURNER: What is the whole question? 6 Please ask a complete question. If you were changing 7 it, please ask the whole question with the change 8 MR TORPEY: I'd like an answer to my 9 question. 10 MR TURNER: Objection as to form and 11 foundation 12 THE WITNESS: I do not know 13 MR TORPEY: Q So even if you had gotten up, 14 looked out the window, sat back down and thought you 15 really don't know whether or not you're going to clear, 16 you don't know what you would have done in that 17 situation? 18 MR TURNER: Objection as to form, incomplete 19 hypothetical 20 THE WITNESS: If I am not in that sort of 21 situation, I really wouldn't know 22 MR TORPEY: Ms. Interpreter, he started to 23 speak before the objection. Did you catch what he 24 started to say? 25 THE INTERPRETER: He said, at such a</p> <p style="text-align: right;">Page 81</p> |

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1 situation
2 MR TORPEY: Q Now, if you had gotten up out
3 of your seat and looked at the United aircraft and sat
4 back down and didn't know whether or not you would run
5 into the other aircraft, one of the things you could
6 have done is suggested to the crew they could have
7 stopped until they figure out whether or not they're
8 going to clear the other aircraft?
9 MR TURNER: Objection as to form, incomplete
10 hypothetical
11 THE WITNESS: If I am not in such a situation,
12 I do not know.
13 MR TORPEY: Q Sir, I'm asking you a
14 hypothetical question, and I have a right to do that,
15 and I want you to answer that question
16 And the question is all of the factors of
17 October 7, 2003, remain exactly the same, so don't tell
18 me you weren't in that situation, because you were
19 Put yourself back in that same situation The
20 only thing I want you to do is, for purposes of my
21 question, when you sat back down in your seat you did
22 not know for sure whether or not you would clear the
23 other aircraft
24 In that situation, sir, what would you tell
25 that crew they should do?

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1 that we could pass by
2 Q And did you represent to the pilot in command
3 and the flying pilot that information that you just
4 mentioned, that you thought that the aircraft would
5 clear?
6 MR TURNER: Can I have that question back
7 I'm sorry In English
8 (Record read by the reporter)
9 THE WITNESS: It was not a thought The three
10 of us were convinced that we could clear, or certain
11 that we could clear, or we believed firmly that we could
12 clear
13 MR TORPEY: Q The question, though, sir, is
14 did you represent to the other two pilots after looking
15 out the window that you felt that the ANA aircraft would
16 not collide with the United aircraft?
17 A The three of us discussed
18 Q I didn't ask you that, sir I'll ask you
19 again I'm asking you what you said to them Did you
20 say to them after looking out the window that you,
21 Mr Usui, felt that the aircraft you were in would clear
22 the United airplane That's the question, sir
23 A Since this was four years ago, I do not recall
24 if I said that or not
25 Q If Mr Yamaguchi, the captain said that you

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1 MR TURNER: Objection as to form, incomplete
2 hypothetical And Mr Torpey is improper in giving
3 these kinds of instructions to this witness He should
4 ask questions, not give these absurd instructions to the
5 witness
6 THE WITNESS: In a hypothetical situation,
7 many conditions are unknown, so I cannot answer
8 MR TORPEY: I move to strike that answer I
9 don't think you responded to my question, sir, and
10 you're not going to, so I'll move on.
11 If there was any chance, sir, on the day of
12 this accident that your aircraft was going to strike the
13 United aircraft, would you agree with me that your
14 aircraft should have been stopped before proceeding
15 further?
16 MR TURNER: Objection as to form, incomplete
17 hypothetical
18 THE WITNESS: Until spot 10, I don't know
19 MR TORPEY: Q Now, you said that after
20 sitting down, after looking out the window at the United
21 aircraft you were sure there would be no collision
22 What about what you looked at out the window
23 made you feel there was no chance that your airplane was
24 going to collide with the United airplane
25 A Although it was closer than usual, I believe

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1 said it, would you agree that you must have said it?
2 A I don't quite understand the question
3 Q Well, you said it's been four years so you
4 don't really remember What if Mr. Yamaguchi said that
5 you did represent to them that you thought the clearance
6 was adequate --
7 MR TURNER: Objection --
8 MR TORPEY: Q -- would you agree that you
9 must have said that, or would you say Mr Yamaguchi was
10 lying?
11 MR TURNER: Objection as to form and
12 foundation
13 THE WITNESS: I don't know
14 MR TORPEY: Let me see those exhibits,
15 please Just hand those to me, please
16 Q Let me show you, sir, what was marked
17 yesterday as Exhibit 7, at Mr. Yamaguchi, the company's
18 deposition.
19 Have you ever had a chance to read his
20 statement before?
21 A Yes. I have, but I do not have a clear
22 recollection
23 Q If you look at Exhibit 7, it says here,
24 approaching spot 10 I recognized UAL B777 had started
25 pushout from gate B102 Pilot flying maneuvered

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| <p>1 slightly to the left side of the centerline It looked 2 to me that the maneuver was to increase the margin of 3 clearance from the UAL B777 4 And then he goes on to say, I asked the pilot 5 flying whether the clearance was adequate and then 6 acknowledged it with the cockpit member 7 Do you believe that you were the cockpit 8 member with whom he acknowledged that? 9 A I don't recall clearly 10 Q So you don't know one way or the other? 11 A That's right 12 Q Let's put these exhibits back together 13 Now, you said that the three of you were 14 certain prior to the impact that you were going to 15 clear Other than yourself looking out the window, what 16 else was done by yourself or the other two crew members 17 to come to the conclusion that it was certain you would 18 not hit the United aircraft? 19 THE WITNESS: When you say other, what else 20 did you do, I mean we continued taxiing 21 MR TORPEY: No. Read back the question 22 (Record read by the reporter) 23 MR TURNER: Objection as to form and 24 foundation 25 THE WITNESS: I do not recall</p> <p style="text-align: right;">Page 86</p> | <p>1 A Yes 2 Q Do you understand that there was an 3 investigation by ANA into the cause of the collision 4 between your aircraft and the United aircraft? 5 A Investigation, I don't know 6 Q Are you aware of what ANA determined to be the 7 cause or causes of the collision between the two 8 aircrafts? 9 A I have not 10 Q Have you personally formed any opinion as to 11 what the cause or causes of the collision between the 12 two aircraft was? 13 A No 14 Q And I assume you have no opinion as to who was 15 at fault for causing the collision; correct? 16 A I don't know 17 MR TORPEY: Why don't we mark this 18 (Whereupon, Exhibit 16 was marked for 19 identification) 20 MR TORPEY: Q Let me show you -- well, take 21 a moment You can read it over 22 Have you had a chance to look at that, sir? 23 A Yes 24 Q Okay. May I see that, please The statement 25 that was marked Exhibit 16, that contains your</p> <p style="text-align: right;">Page 88</p> |
| <p>1 MR TORPEY: Q And since you don't recall, 2 you don't know if there was anything else that you did 3 other than look out the window? Fair statement? 4 A I do not recall what we did 5 Q One thing we do know is you never attempted to 6 stop until impact; correct? 7 A We had the clearance 8 Q That was not the question, sir Do you agree 9 with me that at no time prior to the impact was there 10 any attempt to stop the ANA aircraft? 11 A I do not know 12 Q Do you have any recollection of any discussion 13 between yourself and the other two crew members about 14 whether you should stop prior to the impact? 15 A We discussed, and we believed we could clear 16 and so continued taxiing 17 Q So there was never an attempt to stop prior to 18 impact; correct? 19 A There was no necessity to stop 20 Q Do you remember giving a statement to the U S 21 government's National Transportation Safety Board that 22 investigated this collision? 23 A I do not remember 24 Q Do you recall anybody from ANA taking a 25 statement from you?</p> <p style="text-align: right;">Page 87</p> | <p>1 signature; correct? 2 A Yes 3 Q And it's dated October 8 of 2003, do you see 4 that at the top? 5 A Yes 6 Q And that was given by you to ANA relative to 7 this accident; correct? At least the information that 8 is contained in this letter was given to you -- given by 9 you? 10 A Yes 11 Q And was that in the course and scope of ANA 12 investigating the circumstances of this accident as far 13 as you know? 14 A I don't know 15 Q In any event, having read this statement; 16 which is dated October 8, 2003, would it have been given 17 by you on that day, or would it have been given on 18 October 7, the day this incident actually happened? 19 A I have a recollection that I wrote this on the 20 very day of October 7, 2003, but it is not certain 21 Q All right Whether you wrote it on the 7th or 22 the 8th of October, this would have been written when 23 the events surrounding the collision or the events 24 leading up to it were very fresh in your mind; correct? 25 A Probably</p> <p style="text-align: right;">Page 89</p> |

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1 Q And the statement when you gave it for
2 purposes of the NTSB to get this was true and accurate;
3 correct?
4 Let me rephrase it
5 This statement that you gave that was
6 submitted to the NTSB by ANA, it was a true and accurate
7 statement; correct?
8 A Yes It is as this says
9 Q Let's look at the statement if you look -- may
10 I see this, please. Your counsel has a copy or you can
11 look at the one I'm putting up here
12 First of all, the numbers on the left-hand
13 column, 18:48, 18:55, 19:00 Do you know who supplied
14 those?
15 A No, I don't know who provided those
16 Q Let's look at the information at 18:55 It
17 says, requested taxi to the ramp tower, then received
18 clearance until spot 10
19 And it goes on to say, then we were told to
20 contact ground control
21 What did you mean by your statement where it
22 says you were cleared to go to spot 10, then this word
23 right here, "then," told to contact ground control?
24 What did you mean by that, sir?
25 A I don't know what that means specifically

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1 A I don't know
2 Q You don't know if the aircraft you were in
3 when you taxied collided with the United aircraft?
4 A My understanding that we continued taxiing,
5 and there was contact
6 Q When you say contact, there was a collision
7 between the ANA aircraft that you were in and the United
8 aircraft that you had previously looked out the window
9 at; correct?
10 A Yes The United aircraft that I saw from the
11 window
12 Q And do you know what portion of your aircraft
13 came in contact with what portion of the United
14 aircraft?
15 A I do not see the point of contact actually
16 Q The point of contact was the right wing tip of
17 your aircraft with the left wing tip of the United
18 aircraft; correct?
19 A Left?
20 Q Let me break it down
21 The portion of the ANA aircraft that collided
22 with the United aircraft was the right wing tip;
23 correct?
24 A I couldn't see, so I don't know
25 Q I understand what you're saying. But do you

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1 Q The word until spot 10, you understand that
2 ramp control only cleared you to go to spot 10, the
3 transition point; correct?
4 A That's our understanding.
5 Q Now, if we continue on that statement, it says
6 here on the next line, starting here, on the way to
7 enter to A taxiway by spot 10, turning to the left, I
8 saw a UAL B777 being pushed out from gate G102 And in
9 order to check the clearance with the airplane, I looked
10 outside. However, it says the right-hand wing tip could
11 not be invisible
12 What did you mean by that, sir?
13 A It is as is written
14 Q Did you mean that when you looked out the
15 right window the right wing tip was not visible? Is
16 that what you meant?
17 A It means I could not see the right wing tip
18 Q Fair enough And that's because simply
19 looking out the window, it's a sweptback wing, and you
20 cannot see out the window the wing tip on the 777
21 aircraft; correct?
22 A That's right
23 Q Ultimately you taxied the aircraft, you and
24 the other two crew members, into the United aircraft;
25 correct?

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1 know today if it was the right wing tip of your aircraft
2 that collided with the United aircraft?
3 A I know there was a contact, but I don't know
4 where because I could not see
5 Q The contact between the United aircraft and
6 your aircraft was, as you refer to here -- strike that
7 The right wing tip, as you say, was not
8 visible, and so you were not able to actually see the
9 impact? Is that what you're saying?
10 A Yes I'm saying that I could not see the
11 right wing, so I don't know what part of the UA aircraft
12 our aircraft's right wing contacted
13 Q Fair enough Now, there was never any attempt
14 after leaving the engine-start line by yourself or the
15 other two crew members in the ANA aircraft to try and
16 contact ramp control to determine whether or not the ANA
17 aircraft would clear the United aircraft; correct?
18 A I don't know
19 Q That right rear window that you were looking
20 out at the United aircraft that we discussed earlier,
21 that window opens; correct?
22 A No It cannot be opened
23 Q Is there a right window -- strike that
24 Is there a window on the right-hand side of
25 the cockpit that can be opened?

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1 A Yes
2 Q Other than the right rear-most window, did you
3 go to any other windows in the cockpit to attempt to
4 look out and see if you could see the right wing tip?
5 A No, there is not
6 Q You did not? You only looked out one window?
7 Is that right?
8 A You mean me? I looked from the rear-most
9 window
10 Q Okay And neither you nor the other crew
11 members attempted to open the right-hand side window at
12 any time during the taxi; correct?
13 A There is no such operation
14 Q Well, there's a right-hand window that opens I
15 thought you said
16 A Yes
17 Q Have you ever had a chance to open a window,
18 the right-hand window, on a 777 aircraft and sort of
19 poke your head out and look out that window?
20 A Only when the aircraft is stationary, in other
21 words, when the engine is not on
22 Q When you've done that, can you see the right
23 wing tip?
24 THE INTERPRETER: When it is parked, he said
25 Can I have the question again

Page 94

1 THE VIDEOGRAPHER: Coming back on the record
2 The time on the monitor is 4:50 Please begin
3 MR TORPEY: Q Mr Usui, again, looking at
4 your statement, Exhibit 16, if we look at this final
5 line down here, it says that taxi speed was very slow at
6 the moment of the collision
7 During the taxi, was there a point in time
8 when the taxi speed slowed? In other words, you were
9 going faster and then slowed prior to the impact?
10 A I don't know
11 Q Well, apparently in your statement you stated
12 that, in fact, the taxi speed was -- strike that
13 You say the taxi speed was very slow, and you
14 go on to say, also our aircraft proceeded a little
15 bit -- or "bid," but I think you mean "bit" -- left of
16 the taxi centerline
17 Does that refresh your recollection about
18 whether the aircraft prior to impact deviated to the
19 left of the centerline?
20 MR. TURNER: Can I have the question read
21 back, please
22 (Record read by the reporter)
23 MR TURNER: Objection as to form and
24 foundation
25 THE WITNESS: It was on the centerline but

Page 96

1 (Record read by the reporter)
2 THE WITNESS: When one pokes one's head out,
3 it is possible to see
4 MR TORPEY: Q If we continue on in your
5 statement, you say here in the next line, since aircraft
6 turning at spot 10 to A taxiway, I checked the
7 clearance Are you again referring to the clearance
8 between your aircraft and the United aircraft?
9 A That's right
10 Q And it goes on to say and noticed a wing
11 walker accompanied the UAL 777 at the left side I did
12 not see another on the right side I saw the wing
13 walker giving an okay-sign presumably to the tow tractor
14 of the United 777
15 What was the significance of that statement or
16 that observations, if any?
17 A I simple told the truth.
18 Q Had no significance? You were just stating
19 what you saw?
20 A That's right
21 MR. TURNER: We've been going for more than an
22 hour and a half again Let's take a break
23 THE VIDEOGRAPHER: Going off the record The
24 time on the monitor is 4:33 p m
25 (Recess taken)

Page 95

1 towards the left
2 MR TORPEY: Q What was the reason that the
3 aircraft deviated to the left of the centerline prior to
4 impact? What was the purpose of that?
5 MR TURNER: Objection as to form and
6 foundation
7 THE WITNESS: I don't know the reason
8 MR TORPEY: Q If you as a pilot flying in
9 the 777 had a potential collision hazard to your right,
10 would deviating to the left of the centerline increase
11 or decrease the clearance between the two objects?
12 MR TURNER: Objection as to form, foundation,
13 and incomplete hypothetical
14 THE WITNESS: I don't know unless I'm in that
15 situation
16 MR TORPEY: Q Let me show you what was
17 previously marked Exhibit 14, which is the federal
18 aviation regulations
19 If you look at Exhibit 14, that's federal
20 aviation regulation section 91.3 It says
21 responsibility and authority of the pilot in command,
22 and under subsection A it states, and I quote, the pilot
23 in command of an aircraft is directly responsible for
24 the final authority as to the operation of that
25 aircraft

Page 97

Ieruo Usui

| | |
|---|--|
| <p>1 Mr Usui, as a captain and proficiency check 2 pilot and flying pilot of a 777 for ANA that flies ANA 3 aircrafts into the United States, were you aware of that 4 aviation regulation? 5 A In Japan there's an aviation regulation under 6 the same title 7 Q And does it read the same as what this 8 regulation reads? 9 A I don't know because one is in English and one 10 is in Japanese, but they are similar 11 Q And you were aware of the -- at least the 12 Japanese version of this regulation on October 7 of 13 2003; correct, sir? 14 A Yes. 15 Q Standby one second, please 16 MR TORPEY: Let's mark this as the next 17 exhibit which would be what number? 18 (Whereupon, Exhibit 17 was marked for 19 identification) 20 MR TORPEY: Q Let me show you what was 21 marked as Exhibit 17, another federal aviation 22 regulation, and this one is section 91 13 23 THE VIDEOGRAPHER: Can you move it to the left 24 a little bit. 25 MR TORPEY: Yeah And that section reads,</p> <p style="text-align: right;">Page 98</p> | <p>1 aircraft so close to another aircraft as to create a 2 collision hazard 3 Mr Usui, were you aware of that federal 4 aviation regulation? 5 A It is the first time for me to see this 6 Q And is there a similar Japanese regulation 7 such as FAR 91 111? 8 A I can't recall. 9 Q Okay If you look below that federal aviation 10 regulation 91 113, right-of-way rules except water 11 operations and under subsection B general, it states 12 that vigilance shall be maintained by each person 13 operating an aircraft so as to see and avoid other 14 aircraft 15 Were you aware of that federal aviation 16 regulation? 17 MR TORPEY: I'd ask Counsel not to point and 18 direct the witness while a question is pending You've 19 highlighted a document You pointed to the witness 20 while I'm cross-examining him on a question Document 21 is right there in front of the witness That is 22 completely improper 23 MR TURNER: That's exactly the point The 24 highlighted point that I have highlighted you have 25 highlighted and the witness can't see it because the</p> <p style="text-align: right;">Page 100</p> |
| <p>1 under careless or reckless operation, subpart A, and I 2 quote, aircraft operations for the purposes of air 3 navigation, no person shall operate an aircraft in a 4 careless or reckless manner so as to endanger the life 5 or property of another 6 Q Now, do you see that? Mr Usui, were you 7 aware of that federal aviation regulation? 8 A It is the first time for me to see this 9 Q Do you know if there is -- if there is a 10 similar counterpart in the Japan regulations? 11 A Yes, there is. 12 (Whereupon, Exhibit 18 was marked for 13 identification) 14 MR TORPEY: Q Let me show you Exhibit 15 Number -- 16 THE VIDEOGRAPHER: You won't be able to see it 17 there. 18 MR TORPEY: What's that? 19 THE VIDEOGRAPHER: Just move it to the left 20 MR TORPEY: Hold on one second 21 THE VIDEOGRAPHER: Down That's better 22 MR TORPEY: Q Let me show you what was 23 marked as Exhibit 18, and in particular under 24 section 91 111, operating near other aircraft, and 25 section A, it reads, quote, no person may operate an</p> <p style="text-align: right;">Page 99</p> | <p>1 court reporter's head is in his way That's the only 2 reason I gave him the new Exhibit 18 because he couldn't 3 see it because of the court reporter's head and you know 4 that's the case 5 MR TORPEY: I'd like to see that Would you 6 hand me that, sir, please Could I see that 7 I stand corrected It is as a marked on that 8 exhibit 9 MR TURNER: Sure is. 10 MR TORPEY: Q Sir, having reviewed federal 11 aviation regulation 91 113B, were you aware of that 12 federal aviation regulation regarding the obligation to 13 see and avoid other aircraft? 14 A This is the first time I see this federal 15 aviation regulation. 16 Q And is there a Japanese counterpart or a 17 similar Japanese regulation requiring see and avoid of 18 other aircraft? 19 A Yes 20 Q And on October 7 of 2003 were you aware of 21 that regulation? 22 A And by that do you mean the Japanese 23 regulation? 24 Q Yes, sir 25 A Yes</p> <p style="text-align: right;">Page 101</p> |

Teruo Usui

1 Q To your knowledge as a proficiency trainer and
2 instructor, would Mr. Mr. Yamaguchi and Mr. Nishiguchi,
3 the other pilots that were with you on October 7 of
4 2003, have the same knowledge and understanding of the
5 Japan airline regulations that were discussed with you
6 today?
7 A Yes
8 Q On the day of this collision on October 7 of
9 2003, the ANA -- strike that
10 If on October 7, 2003, prior to the impact,
11 the United aircraft was stopped or stationary or, let's
12 say, 10 or 15 seconds, and your aircraft was not
13 stationary, you continued to taxi, would you consider
14 that to be an overtaking by your aircraft of the
15 stationary United aircraft?
16 THE INTERPRETER: The interpreter would like
17 to inquire, by overtaking, do you mean physically pass?
18 MR. TORPEY: Yes.
19 MR. TURNER: Objection as to form and
20 incomplete hypothetical
21 THE WITNESS: I do not know
22 MR. TORPEY: Q Well, an aircraft that is
23 stationary can't overtake an aircraft that's moving;
24 correct?
25 A. I won't know unless I am in such a situation

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1 Q What does the word overtaking mean to you in
2 terms of aviation as a pilot? What does the word
3 overtaking mean?
4 A I don't have an understanding
5 Q As a pilot for ANA, do you have an
6 understanding of what it means to have the right-of-way?
7 A Yes
8 Q What does the right-of-way mean?
9 A It means right-of-way
10 THE VIDEOGRAPHER: Two minutes, Counsel
11 MR. TORPEY: You want to switch now because we
12 won't have to stop anymore
13 THE VIDEOGRAPHER: This concludes Videotape 3
14 in the deposition of Teruo Usui. Going off the record.
15 The time on the monitor is 5:18 p.m.
16 (Discussion off the record.)
17 THE VIDEOGRAPHER: Here begins Videotape 4 of
18 the deposition of Teruo Usui. Coming back on the
19 record. The time on the monitor is 5:19. Please begin.
20 MR. TORPEY: Q Mr. Usui, how do you as a
21 pilot know whether your aircraft or another aircraft has
22 the right-of-way while taxiing?
23 A When the ATC controller gives an instruction,
24 that is when the aircraft has the right-of-way
25 Q And what is your definition of the

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1 right-of-way? What does having the right-of-way
2 authorize your aircraft to do?
3 A Do you mean on land or in air?
4 Q On land, during taxi
5 A Then as I said earlier, it is the instruction
6 from ATC
7 Q The only thing, the one and only thing, that
8 the right-of-way -- strike that
9 If you have the right-of-way during taxi, do
10 you have the right to run into another aircraft?
11 MR. TURNER: Objection as to form and
12 incomplete hypothetical
13 THE WITNESS: No.
14 MR. TORPEY: And you got the answer, right?
15 THE REPORTER: Uh-huh
16 MR. TORPEY: Q If you have the right-of-way,
17 does that mean that you as a pilot do not have to see
18 and avoid other aircraft while taxiing?
19 MR. TURNER: Objection as to form and
20 incomplete hypothetical
21 THE WITNESS: I don't know unless I am
22 actually in a situation
23 MR. TORPEY: Q In any situation that your
24 mind can conceive, is there ever a situation during taxi
25 where you do not have to see and avoid another aircraft

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1 simply because you were given the right-of-way?
2 MR. TURNER: Objection as to form and
3 incomplete hypothetical
4 THE WITNESS: My answer is the same as before,
5 unless I am in that actual situation, I would not know
6 MR. TORPEY: Q Do you instruct ANA pilots
7 that when they have the right-of-way, they are relieved
8 from compliance with Japanese aviation regulations?
9 A The pilots have licenses. They have common
10 sense. They have their own knowledge, so I do not even
11 touch that subject
12 Q As a pilot yourself, do you believe, sir, that
13 simply because you are given clearance to taxi that you
14 are relieved of responsibility under Japanese
15 regulations with regard to careless or reckless
16 operation or operating aircraft too near to other
17 aircraft so as to create a collision hazard?
18 MR. TURNER: Objection as to form, foundation,
19 incomplete hypothetical
20 THE WITNESS: When one is operating in the
21 normal way, there would be no violation
22 MR. TORPEY: Q That's not the question, sir.
23 The question is whether you believe that simply getting
24 clearance to taxi relieves you of your obligation to
25 comply with Japanese aviation regulations which require

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Teruo Usui

1 you to not operate an aircraft too close to another
2 aircraft to create a collision hazard?
3 MR. TURNER: Objection as to form, foundation,
4 incomplete hypothetical
5 THE WITNESS: I don't understand what that
6 specific situation is, so I could not answer
7 MR. TORPEY: Q So if the jury in this case
8 hears the testimony, you are saying you cannot answer
9 whether or not getting clearance relieves you -- let me
10 rephrase it
11 As a commercial airline pilot, you have to
12 comply with Japanese regulations; correct?
13 A Of course
14 Q So certainly, sir, you know full well whether
15 or not in getting clearance to taxi that relieves you of
16 any obligation under Japanese regulations to not operate
17 your aircraft so close to another aircraft as to create
18 a collision hazard; true, sir?
19 MR. TURNER: Objection As to form,
20 foundation, lack of -- incomplete hypothetical
21 THE WITNESS: I don't know I cannot answer
22 MR. TORPEY: Would you read back the question
23 and answer in English just for me
24 (Record read by the reporter)
25 MR. TORPEY: Q Let me ask you another

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1 time on the monitor is 5:36 p m
2 (Whereupon, the deposition adjourned at
3 5:36 p m)
4 --oOo--
5 I declare under penalty of perjury that the
6 foregoing is true and correct Subscribed at
7 _____, California, this ____ day
8 of _____, 2007
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TERUO USUI

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1 question, you used the term -- strike that
2 Does the term air control system mean anything
3 to you?
4 A Are you talking about issuing air control
5 instructions?
6 Q One second
7 Does the term air traffic control system, does
8 that term mean anything to you?
9 A As I mentioned earlier, are you talking about
10 air control instructions?
11 Q I'll withdraw the question Mr. Usui,
12 obviously you know at this point that your aircraft ran
13 into the United aircraft on October 7 of 2003 What, if
14 you could do it all over again, what would you have done
15 differently that day?
16 MR. TURNER: Is that your question?
17 MR. TORPEY: That's my question
18 MR. TURNER: Objection as to form, foundation,
19 incomplete hypothetical
20 THE WITNESS: I don't know unless I am in such
21 a situation
22 MR. TORPEY: I don't have any further
23 questions
24 THE VIDEOGRAPHER: Shall we go off the record?
25 This concludes Videotape 4 Going off the record The

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1 CERTIFICATE OF REPORTER
2 I, BRANDON D COMBS, a Certified Shorthand
3 Reporter, hereby certify that the witness in the
4 foregoing deposition was by me duly sworn to tell the
5 truth, the whole truth, and nothing but the truth in the
6 within-entitled cause;
7 That said deposition was taken in shorthand by
8 me, a disinterested person, at the time and place
9 therein stated, and that the testimony of the said
10 witness was thereafter reduced to typewriting, by
11 computer, under my direction and supervision;
12 That before completion of the deposition,
13 review of the transcript was not requested. If
14 requested, any changes made by the deponent (and
15 provided to the reporter) during the period allowed are
16 appended hereto
17 I further certify that I am not of counsel or
18 attorney for either or any of the parties to the said
19 deposition, nor in any way interested in the event of
20 this cause, and that I am not related to any of the
21 parties thereto
22 DATED: November 29, 2007
23
24
25

BRANDON D COMBS, CSR 1297

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Usui Dep Exhibit 14

Federal Aviation Administration, DOT

Subpart A—General

SOURCE: Docket No. 18334, 54 FR 34292 Aug 18 1989, unless otherwise noted

§ 91.1 Applicability.

(a) Except as provided in paragraphs (b) and (c) of this section and §§ 91.701 and 91.703, this part prescribes rules governing the operation of aircraft (other than moored balloons, kites, unmanned rockets, and unmanned free balloons, which are governed by part 101 of this chapter, and ultralight vehicles operated in accordance with part 103 of this chapter) within the United States, including the waters within 3 nautical miles of the U.S. coast.

(b) Each person operating an aircraft in the airspace overlying the waters between 3 and 12 nautical miles from the coast of the United States must comply with §§ 91.1 through 91.21; §§ 91.101 through 91.143; §§ 91.151 through 91.159; §§ 91.167 through 91.193; § 91.203; § 91.205; §§ 91.209 through 91.217; § 91.221; §§ 91.303 through 91.319; §§ 91.323 through 91.327; § 91.605; § 91.609; §§ 91.703 through 91.715; and § 91.903.

(c) This part applies to each person on board an aircraft being operated under this part, unless otherwise specified.

[Doc. No. 18334, 54 FR 34292, Aug 18, 1989, as amended by Amdt 91-257 64 FR 1079, Jan. 7, 1999; Amdt 91-282 69 FR 44880 July 27 2004]

§ 91.3 Responsibility and authority of the pilot in command.

(a) The pilot in command of an aircraft is directly responsible for, and is the final authority as to, the operation of that aircraft.

(b) In an in-flight emergency requiring immediate action, the pilot in command may deviate from any rule of this part to the extent required to meet that emergency.

(c) Each pilot in command who deviates from a rule under paragraph (b) of this section shall, upon the request of the Administrator, send a written report of that deviation to the Administrator.

(Approved by the Office of Management and Budget under control number 2120-0005)

§ 91.9

§ 91.5 Pilot in command of aircraft requiring more than one required pilot.

No person may operate an aircraft that is type certificated for more than one required pilot flight crewmember unless the pilot in command meets the requirements of § 61.58 of this chapter.

§ 91.7 Civil aircraft airworthiness

(a) No person may operate a civil aircraft unless it is in an airworthy condition.

(b) The pilot in command of a civil aircraft is responsible for determining whether that aircraft is in condition for safe flight. The pilot in command shall discontinue the flight when unairworthy mechanical, electrical, or structural conditions occur.

§ 91.9 Civil aircraft flight manual, marking, and placard requirements

(a) Except as provided in paragraph (d) of this section, no person may operate a civil aircraft without complying with the operating limitations specified in the approved Airplane or Rotorcraft Flight Manual, markings, and placards, or as otherwise prescribed by the certifying authority of the country of registry.

(b) No person may operate a U.S.-registered civil aircraft—

(1) For which an Airplane or Rotorcraft Flight Manual is required by § 21.5 of this chapter unless there is available in the aircraft a current, approved Airplane or Rotorcraft Flight Manual or the manual provided for in § 121.141(b); and

(2) For which an Airplane or Rotorcraft Flight Manual is not required by § 21.5 of this chapter, unless there is available in the aircraft a current approved Airplane or Rotorcraft Flight Manual, approved manual material, markings, and placards, or any combination thereof.

(c) No person may operate a U.S.-registered civil aircraft unless that aircraft is identified in accordance with part 45 of this chapter.

(d) Any person taking off or landing a helicopter certificated under part 29 of this chapter at a heliport constructed over water may make such momentary flight as is necessary for

Usui Dep Exhibit 15

第 1581070399 号

CERT NO

第1種航空身体検査証明書

AVIATION MEDICAL CERTIFICATE(CLASS1)

氏 名

Name 薄井 輝雄

生年月日

1957年03月08日

Date of Birth (y/m/d)

国籍 本籍 神奈川県

Nationality Registered Domicile

現住所 千葉県印旛郡栄町竜角寺台

Address 5-11-15

有効期間 Valid from (y/m/d) 2007年06月27日 から
to (y/m/d) 2007年12月26日 まで

条件事項 なし

Conditions

航空法第31条の規定により、身体検査
基準第1種に適合することを証明する。

This is to certify that the above-mentioned person complies
with the Aviation Medical standards(Class1) in accordance
with Article 31 of Civil Aeronautics Law of Japan.

2007年06月04日

Date of issue (y/m/d)

国土交通大臣

Minister of Land, Infrastructure and Transport

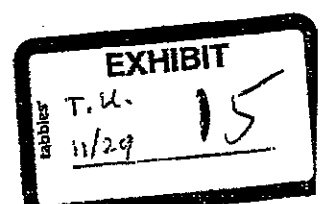
(指定航空身体検査医)

(Designated Aviation

Medical Examiner)

福本正勝

印



備 考

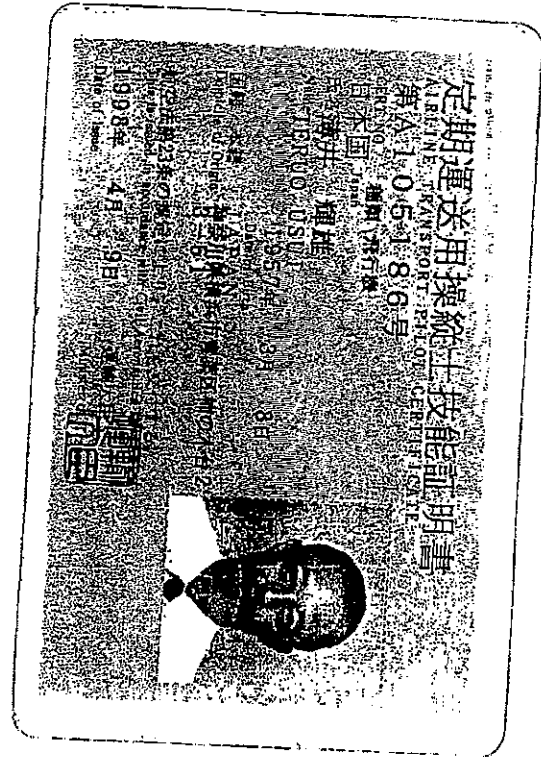
Remarks

- 1 事業用操縦士、一等航空士及び航空機関士の資格を有する者がこの証明書（第1種航空身体検査証明書である場合に限る。以下同じ。）交付の後定期運送用操縦士の資格を取得したときは、この証明書の有効期間は6か月に短縮されるものとする。

When the holder of a Commercial Pilot Certificate, a Class 1 Flight Navigator Certificate and a Flight Engineer Certificate has obtained an Airline Transport Pilot Certificate after the date of issuance of this certificate (limited to the holder of a Class 1 Medical Aviation Certificate. The same shall apply hereinafter), the period of validity of this certificate shall be reduced to 6 months.

- 2 定期運送用操縦士の資格を有する者がこの証明書の取得後これ以外の資格を取得したときにおいても、この証明書の有効期間は変更しないものとする。

When the holder of an Airline Transport Pilot Certificate has obtained a certificate of other qualification after the date of issuance of this certificate, the period of validity of this certificate shall remain unchanged.



注釈 Notes

種類 Category

A. 飛行機 Aeroplane

G. 滑空機 Glider

3. タービン 発動機関係 Turbine-Engine and systems

5. 計測器関係 Instrument

空軍 Class

Land-Single-Engine 陸上単発機

Land-Multi-Engine 陸上多発機

Sea-Single-Engine 水上単発機

Sea-Multi-Engine 水上多発機

Land-Single-Piston 陸上単発ピストン機

Land-Multi-Piston 陸上多発ピストン機

Land-Multi-Turbine 陸上多発タービン機

Sea-Single-Piston 水上単発ピストン機

Sea-Single-Turbine 水上単発タービン機

Sea-Multi-Piston 水上多発ピストン機

Sea-Multi-Turbine 水上多発タービン機

Motion-Glider 動力滑空機

High-Class-Glider 上級滑空機

Middle-Class-Glider 中級滑空機

Sea-Single-Piston 水上単発ピストン機

Sea-Single-Turbine 水上単発タービン機

Sea-Multi-Piston 水上多発ピストン機

Sea-Multi-Turbine 水上多発タービン機

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High-Class-Glider 上級滑空機

Middle-Class-Glider 中級滑空機

Sea-Single-Piston 水上単発ピストン機

Sea-Single-Turbine 水上単発タービン機

H. 回転翼機 Helicopter

S. 飛行艇 Seaplane

2. ピストン 発動機関係 Piston-Engine

4. プロペラ関係 Propeller

6. 電気関係 Electricity

Sea-Single-Piston 水上単発ピストン機

Sea-Single-Turbine 水上単発タービン機

Sea-Multi-Piston 水上多発ピストン機

Sea-Multi-Turbine 水上多発タービン機

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Sea-Single-Piston 水上単発ピストン機

Sea-Single-Turbine 水上単発タービン機

Sea-Multi-Piston 水上多発ピストン機

資格 航空級無線通信士



免許証の番号

HABW 8

免許の年月日

昭和52年 5月11日

氏名

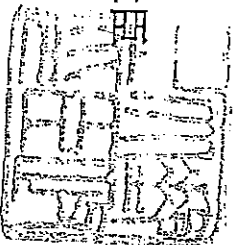
薄井輝雄

昭和32年 3月 8日生

左の者は、無線従事者国家試験及び免許規則により、左記資格の免許を与えたものであることを証明する。
この免許証は、国際電気通信条約附属無線通信規則に規定する無線電話通信士一般証明書に該当すること
を証明する。

昭和52年 5月11日

郵政大臣



Usui Dep Exhibit 16

October 8, 2003

Mr. Van Mckenny
NTSB

SUBJ: NH007 (SFO NRT) B777, Right Hand Wingtip Collided with UAL B777 Right Hand Wingtip

Dear Mr Mckenny,

On October 7, 2003, during the taxi for departure, NH007 flight from San Francisco to Narita had the airplane's right hand wingtip colliding with a UAL B777, which was being pushed out from gate G102. Following is the UTC time-line details of the case.

I, as a Multi-Captain, which is an augmented crew of the flight, was seated in the observer seat.

18:48 Received clearance to push out from the Ramp tower.
-During the push-out, received an advice from the Ramp tower to be careful that another B777 would be taxiing in at gate G99.

18:55 Requested taxi to the Ramp tower, then received clearance till spot 10. Then we were told to contact GND control. At the initial contact, we were cleared as [Taxi, RWY 28L via A, F, hold short of RWY 01L].

-On the way to enter to A-TWY by spot 10 (turning to left), I saw a UAL B777 being pushed out from gate G102 and in order to check the clearance with the airplane, I looked outside however, the right hand wing tip could not be visible.

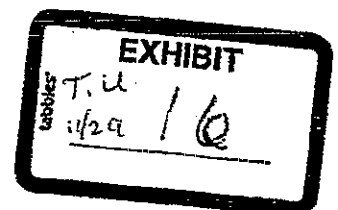
-Since aircraft turning at spot 10 to A-TWY, I checked the clearance and noticed a wing walker accompanied the UAL B777 at the left side. But I did not see another on the right side. I saw the wing walker giving an OK sign presumably to the tow tractor of the UAL B777.

-Right after that, I felt the shock of collision and heard noise.

19:00 Aircraft stopped at the site.

[Comment]

Taxi speed was very slow at the moment of the collision. Also, our aircraft proceeded a little bit left side of the taxi center line.



[Reference]

1 Information of License

ATPI Number: 105186 issued on April 9, 1998

Medical Certificate Number: 14018148 valid till December 26, 2003

Aeronautical Radio License Number: HABE008 issued on May 11, 1977

Sincerely Yours,



Teruo USUI

Captain B777

ALL NIPPON AIRWAYS

Usui Dep Exhibit 17

§ 91.11

takeoff or landing through the prohibited range of the limiting height-speed envelope established for the helicopter if that flight through the prohibited range takes place over water on which a safe ditching can be accomplished and if the helicopter is amphibious or is equipped with floats or other emergency flotation gear adequate to accomplish a safe emergency ditching on open water.

§ 91.11 Prohibition on interference with crewmembers

No person may assault, threaten, intimidate or interfere with a crewmember in the performance of the crewmember's duties aboard an aircraft being operated.

§ 91.13 Careless or reckless operation

(a) *Aircraft operations for the purpose of air navigation.* No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.

(b) *Aircraft operations other than for the purpose of air navigation.* No person may operate an aircraft, other than for the purpose of air navigation on any part of the surface of an airport used by aircraft for air commerce (including areas used by those aircraft for receiving or discharging persons or cargo) in a careless or reckless manner so as to endanger the life or property of another.

§ 91.15 Dropping objects.

No pilot in command of a civil aircraft may allow any object to be dropped from that aircraft in flight that creates a hazard to persons or property. However, this section does not prohibit the dropping of any object if reasonable precautions are taken to avoid injury or damage to persons or property.

§ 91.17 Alcohol or drugs

(a) No person may act or attempt to act as a crewmember of a civil aircraft—

(1) Within 8 hours after the consumption of any alcoholic beverage;

(2) While under the influence of alcohol;

(3) While using any drug that affects the person's faculties in any way contrary to safety; or

(4) While having 0.4 percent by weight or more alcohol in the blood.

(b) Except in an emergency no pilot of a civil aircraft may allow a person who appears to be intoxicated or who demonstrates by manner or physical indications that the individual is under the influence of drugs (except a medical patient under proper care) to be carried in that aircraft.

(c) A crewmember shall do the following:

(1) On request of a law enforcement officer, submit to a test to indicate the percentage by weight of alcohol in the blood, when—

(i) The law enforcement officer is authorized under State or local law to conduct the test or to have the test conducted; and

(ii) The law enforcement officer is requesting submission to the test to investigate a suspected violation of State or local law governing the same or substantially similar conduct prohibited by paragraph (a)(1), (a)(2), or (a)(4) of this section.

(2) Whenever the Administrator has a reasonable basis to believe that a person may have violated paragraph (a)(1), (a)(2), or (a)(4) of this section, that person shall, upon request by the Administrator, furnish the Administrator, or authorize any clinic, hospital, doctor or other person to release to the Administrator, the results of each test taken within 4 hours after acting or attempting to act as a crewmember that indicates percentage by weight of alcohol in the blood.

(d) Whenever the Administrator has a reasonable basis to believe that a person may have violated paragraph (a)(3) of this section, that person shall, upon request by the Administrator, furnish the Administrator, or authorize any clinic, hospital, doctor, or other person to release to the Administrator the results of each test taken within 4 hours after acting or attempting to act as a crewmember that indicates the presence of any drugs in the body.

(e) Any test information obtained by the Administrator under paragraph (c) or (d) of this section may be evaluated

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Federal Aviation Administration, DOT

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(ii) The person manipulating the controls has at least a private pilot certificate with appropriate category and class ratings

(c) No person may operate a civil aircraft that is being used for a flight test for an airline transport pilot certificate or a class or type rating on that certificate, or for a part 121 proficiency flight test, unless the pilot seated at the controls, other than the pilot being checked, is fully qualified to act as pilot in command of the aircraft

§ 91.111 Operating near other aircraft.

(a) No person may operate an aircraft so close to another aircraft as to create a collision hazard

(b) No person may operate an aircraft in formation flight except by arrangement with the pilot in command of each aircraft in the formation

(c) No person may operate an aircraft, carrying passengers for hire, in formation flight

§ 91.113 Right-of-way rules: Except water operations.

(a) *Inapplicability* This section does not apply to the operation of an aircraft on water.

(b) *General* When weather conditions permit, regardless of whether an operation is conducted under instrument flight rules or visual flight rules, vigilance shall be maintained by each person operating an aircraft so as to see and avoid other aircraft. When a rule of this section gives another aircraft the right-of-way, the pilot shall give way to that aircraft and may not pass over, under, or ahead of it unless well clear.

(c) *In distress* An aircraft in distress has the right-of-way over all other air traffic.

(d) *Converging* When aircraft of the same category are converging at approximately the same altitude (except head-on, or nearly so), the aircraft to the other's right has the right-of-way. If the aircraft are of different categories—

(1) A balloon has the right-of-way over any other category of aircraft;

(2) A glider has the right-of-way over an airship, powered parachute, weight-shift-control aircraft, airplane, or rotorcraft

(3) An airship has the right-of-way over a powered parachute, weight-shift-control aircraft, airplane, or rotorcraft.

However, an aircraft towing or refueling other aircraft has the right-of-way over all other engine-driven aircraft

(e) *Approaching head-on* When aircraft are approaching each other head-on, or nearly so, each pilot of each aircraft shall alter course to the right.

(f) *Overtaking* Each aircraft that is being overtaken has the right-of-way and each pilot of an overtaking aircraft shall alter course to the right to pass well clear.

(g) *Landing* Aircraft, while on final approach to land or while landing, have the right-of-way over other aircraft in flight or operating on the surface, except that they shall not take advantage of this rule to force an aircraft off the runway surface which has already landed and is attempting to make way for an aircraft on final approach. When two or more aircraft are approaching an airport for the purpose of landing, the aircraft at the lower altitude has the right-of-way, but it shall not take advantage of this rule to cut in front of another which is on final approach to land or to overtake that aircraft.

[Doc. No 18334, 54 FR 34294, Aug 18, 1989, as amended by Amdt 91-282, 59 FR 44880 July 27, 2004]

§ 91.115 Right-of-way rules: Water operations.

(a) *General* Each person operating an aircraft on the water shall, insofar as possible, keep clear of all vessels and avoid impeding their navigation, and shall give way to any vessel or other aircraft that is given the right-of-way by any rule of this section.

(b) *Crossing* When aircraft, or an aircraft and a vessel, are on crossing courses, the aircraft or vessel to the other's right has the right-of-way.

(c) *Approaching head-on* When aircraft, or an aircraft and a vessel, are approaching head-on, or nearly so, each shall alter its course to the right to keep well clear.

(d) *Overtaking* Each aircraft or vessel that is being overtaken has the right-of-way, and the one overtaking shall alter course to keep well clear